MOTION FILED
AUG 11 1998

(8)

No. 97-303

In The

Supreme Court of the United States

October Term, 1997

HUMANA INC. and HUMANA HEALTH INSURANCE OF NEVADA, INC.,

Petitioners,

vs.

MARY FORSYTH, MARIETTA CADE, WILLIE ANDREWS, MARY LOU BUEHLER, HELEN STAVES, RANDOLPH BRATTON and SEARLE AUTO GLASS, INC.,

Respondents.

On Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit

MOTION OF THE CONSUMER CREDIT INSURANCE ASSOCIATION FOR LEAVE TO FILE BRIEF OUT OF TIME AND FOR LEAVE TO FILE BRIEF *AMICUS CURIAE* IN SUPPORT OF PETITION AND BRIEF *AMICUS CURIAE*

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Pursuant to Rule 37.3(a) of the Rules of the Supreme Court of the United States, the Consumer Credit Insurance Association ("CCIA") respectfully requests leave to submit the accompanying *amicus curiae* brief, which presents four surveys of state laws which will be superseded or impaired if this Court does not vacate and reverse the decision below.[1] These surveys are not included or referenced in the "Brief on the Merits of Petitioners" ("Petitioners' Brief"). The surveys demonstrate that: (1) almost all states have specifically enacted comprehensive laws to regulate the business of insurance in accordance with the McCarran-Ferguson Act; (2) almost all states have specifically enacted laws regulating misrepresentations and other unfair or deceptive acts in the business of insurance; (3) almost all states have laws requiring that insurers submit policy forms for approval by the state insurance departments; and (4) almost all states have laws requiring that insurers submit premium rates for approval by the state insurance departments. These surveys present a small but very important segment of the universe of state insurance laws which stand to be impaired or superseded if this Court declines to reverse the decision below. Because this information is likely to be very useful to the Court in its evaluation of the question presented, and because this information is unlikely to be presented to the Court by the parties, the CCIA respectfully requests that the Court grant this motion and permit it to submit the accompanying *amicus* brief.

Furthermore, this Court's decision in this case will have an enormous impact on other cases presently pending in lower courts. For example, a large number of cases challenging an insurance product known as non-filing insurance have been

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1. Petitioners have consented to the submission of the CCIA's *amicus* brief. CCIA's counsel has attempted diligently to contact Respondents' counsel but has not been able to do so.

consolidated under the Multi-District Litigation procedure in the United States District Court for the Middle District of Alabama under the caption *In Re: Consolidated "Non-Filing Insurance" Fee Litigation*, MDL Docket No. 1130.[2] The claims asserted in that consolidated multi-district non-filing insurance litigation are essentially RICO and TILA (Truth in Lending Act, 15 U.S.C. §§ 1601, *et seq.*) claims. Because neither RICO nor TILA specifically relates to the business of insurance, the Court's decision in this case will have a potentially decisive impact on the multi-district non-filing insurance litigation. Some of the CCIA's members are parties to cases pending in the lower courts, and the CCIA requests leave to present their position by way of the *amicus* brief.

For the foregoing reasons, the CCIA also requests leave to submit the proposed *amicus* brief out of time. Under the Court's Rules, the CCIA's brief would have been due on August 6, 1998. The CCIA timely submitted a motion for enlargement of time pursuant to Rule 30 of the Court's Rules. This brief is being submitted on August 11, 1998. Copies of the *amicus* brief have been served on all counsel of record by Express next-day delivery through the U.S. Mail. Thus, the prejudice to the respondents is minimal, if any. Given the potentially wide-ranging and decisive consequences of the Court's decision for insurers in general, and the CCIA's members in particular, the Court's consideration of the question presented will be aided by the state surveys and special perspectives presented in the *amicus* brief. Therefore, the CCIA respectfully requests that the Court grant it leave to submit the accompanying *amicus* brief out of time. *Cf. Booth v. Maryland*, 479 U.S. 1081 (1987) (granting motion for leave to file *amicus* brief out of time); *Johnson v. Transportation Agency*, 479 U.S. 912 (1986); *Goldstein v. California*, 414 U.S. 883 (1973) and 409 U.S. 976 (1972).

2. Non-filing insurance is an insurance product which protects lenders from the risk of loss arising from their inability to recover the collateral for the loan due to the failure to perfect a security interest in the collateral. In part, because of high transactional costs associated with the recording and subsequent releasing of security interests in certain types of collateral, lenders prefer to obtain non-filing insurance. Although non-filing insurance policies have been filed with, and approved by, virtually every state, the plaintiffs in the consolidated multi-district non-filing litigation have asserted claims against more than a dozen insurers (and more than fifty creditors) on behalf of a national class of borrowers.

Respectfully submitted,

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August 11, 1998

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INTEREST OF *AMICUS CURIAE*[1]

The Consumer Credit Insurance Association ("CCIA") is a national organization with more than 180 insurance companies as members. The insurance policies and premium rates used by the CCIA's members are typically filed with and approved by state insurance departments in accordance with governing state statutes.[2] The CCIA's members rely upon the various states' approvals of their policy forms and premium rates in conducting their business. In addition, most states, like Nevada, have expressly adopted comprehensive codes to regulate alleged unfair trade practices in the insurance industry, including misrepresentations concerning the terms of an insurance policy.[3] The CCIA's members are subject to these state unfair insurance practices laws and are subject to the various penalties included therein which may be levied by the state insurance commissioners, including fines and the suspension or revocation of the license to transact business in the state.

The McCarran-Ferguson Act assures the CCIA's members that when they act with regard to the policyholder-insurer

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1. This *amicus* brief has not been authored in whole or in part by counsel for any of the parties. Monetary support for the preparation and submission of this brief was provided by American Bankers Insurance Company of Florida, a member of the CCIA.

2. Surveys of state statutes requiring the filing and approval of policy forms and premium rates are appended to this brief in Appendices A and B.

3. A survey of states which have expressly enacted insurance regulatory laws in response to the McCarran-Ferguson Act is appended to this brief as Appendix C; and a survey of states which have enacted legislation to regulate misrepresentations with regard to insurance policies is appended to this brief as Appendix D.

relationship, and conform to state laws regulating that relationship, they will not be subject to lawsuits based on the alleged violation of general federal laws, such as RICO. This assurance is an important part of the risk matrix analysis undertaken by the CCIA's members in offering a given insurance product, and of the costs which must be taken into account in developing premium rates. The decision of the Ninth Circuit Court of Appeals in the instant case severely erodes those assurances and threatens to force a major change in the way the state departments of insurance and the CCIA's members conduct the business of insurance. The effects of such changes will be felt not only by the CCIA's members, but by the insurance industry as a whole. Ultimately, all consumers of insurance are likely to bear the economic consequences of such changes.

Furthermore, this Court's ruling on the question presented will have a decisive impact on other cases which are presently before the lower courts, and in which the CCIA's members are either directly involved as parties, or their insurance products have been challenged under federal laws which do not specifically relate to the business of insurance. For these reasons, the CCIA has a substantial interest in these proceedings.

SUMMARY OF THE ARGUMENT

The Ninth Circuit's decision in the case below holds that the McCarran-Ferguson Act (the "Act") does not preclude the application of RICO to alleged misrepresentations concerning an insurance policy even though state law regulates the conduct in question, because RICO is not in "direct conflict" with the state law and, therefore, does not invalidate, impair or supersede the state law. According to the Ninth Circuit, there is a "symmetry" between RICO remedies and the remedies provided by state law, and such symmetry does not create a conflict

between RICO and state law such as will cause preclusion of RICO under the McCarran-Ferguson Act.

The Ninth Circuit's analysis is fatally flawed because it ignores the express language and purposes of the McCarran-Ferguson Act, and shifts the focus of the analysis from whether relevant state law exists to whether federal and state laws are incompatible. Because it finds that RICO remedies are not directly incompatible with the remedies provided by state law, the Court below finds that RICO may be applied as a parallel insurance review system. In doing so, the Ninth Circuit creates an alternative federally-based system for addressing alleged fraud and unfair practices in the business of insurance, and defeats the principal purpose of the Act, which was to leave the regulation of the business of insurance to the states unless Congress enacted a law which specifically relates to the business of insurance.

The "Brief on the Merits of Petitioners" ("Petitioners' Brief") cogently argues: (1) that the "inverse" preemption analysis applied by the Ninth Circuit Court of Appeals in the decision below is logically flawed and produces perverse results; and (2) that ordinary rules of statutory interpretation should be applied to the McCarran-Ferguson Act. While avoiding repetition of those arguments, this brief adds to the analysis by showing that the text of the McCarran-Ferguson Act itself sets forth the following purposes: first, the Act "returns" the field of insurance regulation and taxation to the states and, second, it withdraws Congress's legislative power over that field, except when Congress expressly speaks otherwise by enacting a statute which specifically relates to the business of insurance. Thus, the Act's specific concern was to ensure that a federal forum was *not* available for the resolution of disputes concerning the business of insurance, except when Congress indicated by specific legislation it wished to do so. Because the "direct-

conflict" test creates a federal forum and permits the application of federal laws to the business of insurance even when the federal statute, RICO here, does not specifically relate to the business of insurance, this test frustrates the accomplishment of the purposes of the McCarran-Ferguson Act, and this Court should reject that test.

Additionally, this brief presents four surveys of state insurance laws which demonstrate that the states (including Nevada, the state whose laws are directly at issue in this case) have adopted comprehensive laws to regulate the business of insurance, and in particular, conduct which is alleged to be deceptive or a misrepresentation of the terms of an insurance policy. The application of RICO in the face of state law which admittedly regulates the alleged conduct here, impairs or supersedes the state insurance codes, including state laws which specifically regulate unfair insurance trade practices and alleged misrepresentations with regard to the business of insurance — laws which the states expressly enacted pursuant to the McCarran-Ferguson Act. The impairment occurs because RICO provides remedies which are far more attractive to aggrieved policyholders than the remedies provided by state insurance codes. As a result, policyholders will ignore the redress systems provided by the states and will sue their insurers for RICO damages in most disputes. Thereby, the state insurance regulatory schemes will have been supplanted and superseded by operation of the federal RICO statute. Instead of disputes between policyholders and their insurers being resolved by the states' chosen mechanisms, federal courts will henceforth become the main forum for the resolution of those disputes.

Finally, this brief presents the viewpoint of the CCIA's members, who not only must comply with state insurance laws regulating the business of insurance, but now, if the Ninth

Circuit's decision stands, will also have new exposure under general federal laws which do not specifically relate to the business of insurance, and whose application to the insurer-insured relationship has hitherto been precluded under the McCarran-Ferguson Act. This will make insurers, including the CCIA's members, reluctant to resolve disputes over alleged violations with regard to the business of insurance through the intermediation of the state insurance commissioners, because such resolution could compromise the insurers' defenses in pending or threatened RICO litigation. Thus, application of RICO to the business of insurance would further impair the states' traditional regulation of the insurance industry.

ARGUMENT

I.

THE "DIRECT-CONFLICT" TEST THWARTS THE PRINCIPAL PURPOSE OF THE McCARRAN-FERGUSON ACT AND CREATES AN ALTERNATIVE FEDERAL SYSTEM FOR THE REGULATION OF THE BUSINESS OF INSURANCE.

In the case below, the Ninth Circuit, following its previous decision in *Merchants Home Delivery Serv., Inc. v. Frank B. Hall & Co.*, 50 F.3d 1486 (9th Cir.), *cert. denied*, 116 S. Ct. 418 (1995), held that the application of a federal statute which prohibited conduct also prohibited under a state's insurance law did not "invalidate, impair, or supersede" the state's laws under the McCarran-Ferguson Act. *Forsyth v. Humana, Inc.*, 114 F.3d 1467, 1480 (9th Cir. 1997). This decision is wrong because neither the express language of the Act nor its purposes provides any support whatsoever for that rationale. Indeed, because the decision below opens up a parallel federal system for redressing alleged fraud and unfair practices in the business

of insurance, it thwarts the main purpose of the McCarran-Ferguson Act, which was to leave the regulation of the business of insurance to the states, and to provide no federal forum for resolution of disputes concerning the business of insurance, except when Congress enacted a law specifically relating to the business of insurance.

Two interrelated purposes are apparent on the face of the McCarran-Ferguson Act.[4] First, Congress intended that States would continue to regulate and tax "the business of insurance" just as they had done prior to *United States v. South-Eastern Underwriters Ass'n*, 322 U.S. 533 (1944); and, second, that no Act of Congress would "invalidate, impair, or supersede any law enacted by any State for the purpose of regulating the business of insurance" except if the Act of Congress "specifically relates to the business of insurance."

The *first* purpose was expressed in 15 U.S.C. §§ 1011 and 1012(a), which state, in sequence, as follows:

> Congress hereby declares that the continued regulation and taxation by the several States of the business of insurance is in the public interest. . . .

15 U.S.C. § 1011.

> **(a) State regulation**
>
> The business of insurance, and every person engaged therein, shall be subject to the laws of the several States which relate to the regulation or taxation of such business.

15 U.S.C. § 1012(a).

4. Petitioners' Brief demonstrates that the "direct-conflict" test is not faithful to the plain terms of the McCarran-Ferguson Act and that the Act's terms provide no basis for narrowing the scope of the Act by limiting it to cases of direct conflict between federal and state laws. This brief, therefore, does not repeat those arguments.

These statutory texts make amply clear that Congress was "returning" the field of insurance regulation and taxation to the states, which had been the sole regulators of that industry until *South-Eastern Underwriters*. The governing law prior to *South-Eastern Underwriters*, had been enunciated in *Paul v. Virginia*, 75 U.S. (8 Wall.) 168 (1868), which had held that the issuance of insurance contracts was not a transaction in interstate commerce and, therefore, those contracts were not subject to federal authority emanating from the Commerce Clause. *Paul* confirmed that insurance contracts were "local transactions, . . . [which] are governed by the local law." 75 U.S. (8 Wall.) at 183. *South-Eastern Underwriters*, however, demolished that legal axiom by holding that Commerce Clause jurisdiction did extend to the issuance of insurance contracts. *United States Dep't of Treasury v. Fabe*, 508 U.S. 491, 499 (1993). It was to undo the potential vitiation of traditional state regulation of the insurance industry caused by *South-Eastern Underwriters* that Congress expressly declared that the continued regulation of insurance by the States was in the public interest, and that the insurance industry *shall* be subject to the laws of the States. These provisions made clear that, in Congress's view, federal regulation of the business of insurance was not in the public interest and that the business of insurance would not be subject to federal laws unless, as set forth in § 1012(b), Congress expressly spoke otherwise by enacting a law specifically relating to the business of insurance.

Furthermore, because *South-Eastern Underwriters* had interpreted the Commerce Clause as extending Congress's legislative power to the insurance business, Congress expressly

enacted language to give effect to its *second* purpose, which was the *withdrawal* of Congressional legislative power from the field of insurance regulation and taxation, *except* when Congress expressly spoke otherwise. Accordingly, § 1012(b) laid down the rule that

> No Act of Congress shall be construed to invalidate, impair, or supersede any law enacted by any State for the purpose of regulating the business of insurance . . . .

15 U.S.C. § 1012(b). Section 1011 added support to this rule by explaining that "silence on the part of the Congress shall not be construed to impose any barrier to the regulation or taxation of such business by the several States." The sole exception to this Congressional withdrawal of its legislative power was any "Act [which] specifically relates to the business of insurance." All other Acts of Congress, *i.e.* "general" federal statutes, by the express terms of the McCarran-Ferguson Act, did not apply to the business of insurance so long as state statutes had been enacted to regulate that business.[5]

This Court itself has subscribed to the above propositions. It has stated, for instance, that "the McCarran-Ferguson Act *exempts* the insurance industry from Commerce Clause restrictions", *Metropolitan Life Ins. Co. v. Ward*, 470 U.S. 869, 880 (1985) (emphasis added); and that "the McCarran-Ferguson Act *removes entirely* any Commerce Clause restriction upon [the States'] power to tax the insurance business" and "[t]he McCarran-Ferguson Act simply ma[kes] the Commerce Clause *inapplicable*" to the business of insurance. *Western & S. Life Ins. Co. v. State Bd. of Equalization*, 451 U.S. 648, 655

5. Petitioners' Brief discusses the legislative history of the McCarran-Ferguson Act and demonstrates that the Act's history supports these purposes.

& n.5 (1981) (*citing Prudential Ins. Co. v. Benjamin*, 328 U.S. 408 (1946) (emphases added)).

The Ninth Circuit's decision not only ignores all of the above statutory and case authorities, it effectively creates a federal system for redressing alleged violations in the business of insurance in direct opposition to the main purpose of the McCarran-Ferguson Act, which was to leave the regulation of the business of insurance to the states. Indeed, the Ninth Circuit's decision effectively turns the clock back to *South-Eastern Underwriters*, which applied general federal laws (there the antitrust laws), to the business of insurance. Thereby the Ninth Circuit's decision, and the "direct-conflict" test which is essential to that decision, defeat the clear purposes of the McCarran-Ferguson Act because they permit precisely that which Congress intended to preclude: the application of a general federal statute, RICO here, to the business of insurance.

II.

THE "DIRECT-CONFLICT" TEST THREATENS TO IMPAIR OR SUPERSEDE A LARGE NUMBER OF STATE LAWS SPECIFICALLY ENACTED TO REGULATE THE BUSINESS OF INSURANCE.

The McCarran-Ferguson Act bars the application of general federal laws if the application of such laws will "invalidate, impair, or supersede any law enacted by any State for the purpose of regulating the business of insurance . . . ." 15 U.S.C. § 1012(b).[6] A survey of state insurance laws reveals that no fewer than forty-one states have taken seriously the McCarran-

6. A general federal law is one which does not "specifically relate[] to the business of insurance." 15 U.S.C. § 1012(b). This Court addressed the meaning of that phrase in *Barnett Bank, N.A. v. Nelson*, 517 U.S. 25 (1996), and gave it its ordinary meaning.

Ferguson Act's invitation to regulate the business of insurance, and have expressly enacted legislation for that purpose in direct response to the McCarran-Ferguson Act. *See* Appendix C to this brief. For instance, Nevada, the state whose laws are directly at issue here, has legislated as follows:

> The purpose of NRS 686A.010 to 686A.310, inclusive, is to regulate trade practices in the business of insurance in accordance with the intent of Congress as expressed in the Act of Congress approved March 9, 1945, being c. 20, 59 Stat. 33, also designated as 15 U.S.C. §§ 1011 to 1015, inclusive, by defining, or providing for the determination of, all such practices in this state which constitute unfair methods of competition or unfair or deceptive acts or practices and by prohibiting the trade practices so defined or determined.

Nev. Rev. Stat. § 686A.010 (1997). Nevada's statute unambiguously sets forth the intention and purpose of the Nevada legislature to define, provide for the determination of, and prohibit *all* trade practices which constitute unfair methods of competition or unfair or deceptive acts or practices in the business of insurance. Like most other states, Nevada has undertaken a comprehensive regulation of *all* unfair and deceptive acts and acts of misrepresentation in the business of insurance. *See* Nev. Rev. Stat. §§ 686A.010 to 686A.310.

In addition to the above all-inclusive statement of purpose, forty-eight states have enacted laws specifically forbidding the making, issuing, circulating, publishing, dissemination, or the placing before the public in any manner any false statement or representation with respect to the business of insurance. *See* Appendix D to this brief. Again, Nevada's laws are illustrative of the laws of the other states.

> A person shall not make, issue, circulate or cause to be made, issued or circulated, any . . . statement, . . . which:
>
> 1. Misrepresents the benefits, advantages, conditions or terms of any insurance policy; . . .
>
> 5. Uses any name or title of any policy or class of insurance policies misrepresenting the true nature thereof; . . . .

Nev. Rev. Stat. § 686A.030 (1997).

> No person shall make, publish, disseminate, circulate or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in a . . . publication, or in the form of a notice, circular, pamphlet, . . . or in any other way, any advertisement, announcement or statement containing any . . . representation, or statement with respect to the business of insurance or with respect to any person in the conduct of his insurance business, which is untrue, deceptive or misleading.

Nev. Rev. Stat. § 686A.040 (1997).

The above statutes, and like statutes enacted by almost all other states, should place beyond question that Nevada and the other states have adopted comprehensive laws for the purpose of regulating misrepresentations and unfair practices in the business of insurance, and that such statutes regulate the alleged conduct at issue in this case. And, it should be beyond argument that application of RICO to the conduct in question will, even under the Ninth Circuit's erroneous analysis, create parallel

systems of law for redressing alleged wrongdoing with respect to insurance policies: (1) the state systems enacted pursuant to the invitation of Congress as set forth in the McCarran-Ferguson Act; and (2) the federal RICO system — which does not specifically relate to the business of insurance. Can anyone doubt that given the choice between RICO remedies on the one hand, and state remedies on the other (which are most often administrative investigation and action by the state insurance commissioner), plaintiffs will rarely, if ever, choose the state system in preference to RICO?

> Most aggrieved insureds would opt for the prospect of treble damages rather than participate in remedial measures structured by the [Insurance Commissioner]. This would make insurers less willing to agree with the [Insurance Commissioner] to settle disputes over alleged violations for fear of compromising their positions in pending or threatened RICO litigation. The ability to act promptly and to secure for insureds settlements is central to the state's ability to protect insureds and to regulate the insured-insurer relationship. The prospect of treble damages and attorneys fees would weaken, diminish and do serious injury to, if not nullify, the sections of [the Insurance Act], and the enforcement mechanisms which protect and regulate that relationship.
>
> Application of RICO would also supersede the state laws at issue. Because RICO provides for a private cause of action and treble damages, and because these provisions of RICO differ dramatically from the way in which [the] insurance code addresses the same conduct, RICO would in effect replace [the Insurance Act] as the principal means by which

> to remedy such conduct. It would convert a system of public redress into a system of private redress. The forum for redress would shift from the [Insurance Commissioner] to the federal courts. The result of these effects would be that RICO would supersede [state] laws.

Ambrose v. Blue Cross & Blue Shield, 891 F. Supp. 1153, 1165 (E.D. Va. 1995), *aff'd*, 95 F.3d 41 (4th Cir. 1996). The provision of two parallel systems with widely disparate remedies for redress of alleged violations in the business of insurance will unquestionably result in aggrieved insureds opting for the more individually profitable system — RICO here — over the potentially less individually profitable, the state administrative remedies which balance the interests of the individual policyholder with the interests of all policyholders, thereby rendering the state systems superfluous and superseded by RICO. Indeed, it will take little ingenuity to cast virtually every dispute between an insured and his or her insurer in terms which will enable application of RICO and the attendant superseding of applicable state statutes. The McCarran-Ferguson Act forbids such a result, even by the acknowledgment of those courts which have embraced the "direct-conflict" test. Accordingly, this Court should hold that application of RICO to the business of insurance impermissibly impairs or supersedes the states' insurance statutes and is barred by the McCarran-Ferguson Act.

III.

UNDER THE "DIRECT-CONFLICT" TEST, INSURERS WILL NO LONGER BE ABLE TO RELY UPON THE APPROVALS OF STATE INSURANCE DEPARTMENTS BUT, INSTEAD, WILL HAVE TO STRUCTURE THEIR POLICIES, PREMIUM RATES AND PRACTICES TO CONFORM TO THE DIFFERENT STANDARDS AND RISKS OF RICO.

Typically, insurers must file policy forms and premium rates they propose to use in a given state with the state's insurance commissioner. At least forty-three states have such statutes in their insurance codes. *See* Appendices A and B to this brief. Nevada's laws state as follows:

> Every authorized insurer . . . shall file with the commissioner all . . . [r]ates and proposed increases thereto; . . . [and] Forms of policies to which the rates apply. . . .

Nev. Rev. Stat. § 686B.070 (1997). And, "[i]f the commissioner finds that a proposed increase will result in a rate which is not in compliance with NRS 686B.050, he shall disapprove the proposal." Nev. Rev. Stat. § 686B.110.1 (1997). Other states are more direct and decree that

> No basic insurance policy [form] . . . shall be delivered or issued for delivery in this state unless the form has been filed with, and approved by, the commissioner.

Ala. Code § 27-14-8(a) (1997).

The approval by a state's insurance commissioner of an insurer's policy forms and premium rates gives the insurer a

substantial measure of protection that it may market policies conforming to the approved forms and rates without fear of ancillary litigation.[7] Indeed, because states have a strong interest in protecting their citizens, a state insurance commissioner's approval of policy forms, premium rates, or other practices to the extent they are regulated by state law, should be taken as a conclusive determination by the state that the policies, rates or practices in question benefit the state's consumers of insurance products, and are valid policies, rates or practices. Any complaint regarding the approved policies, rates or practices should then be directed to the state's insurance department, the agency specifically delegated such authority by the state's legislature under the state's comprehensive insurance regulatory scheme.[8]

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7. Federal and state doctrines, such as the filed-rate doctrine, the primary jurisdiction doctrine and the exhaustion of remedies doctrine, reflect federal and state policy that approval by regulatory authorities should insulate the regulated industry from claims which challenge approved rates and practices.

8. The proponents of the "direct-conflict" test contend that application of RICO will not invalidate, impair or supersede any state insurance laws because RICO remedies are simply additional to the remedies provided by state insurance laws. This argument assumes that the states have no interest in maintaining the solvency and financial health of insurance companies. States, such as Nevada, however, have an abiding and substantial interest in ensuring that the financial health of insurance companies is not impaired, and that insurers, even if only in rare cases, are not driven into receivership or liquidation. States must balance the interests of individual policyholders (or a class of policyholders) with the interests of all policyholders. *See, e.g.*, Nev. Rev. Stats. § 680A.120 (establishing minimum capital and surplus requirements); § 680A.140 (requiring deposit in state of amount not less than minimum required capital or surplus); § 680A.270 (requiring filing of annual financial statements by insurers); § 679B.230 (empowering insurance commissioner to examine financial condition of insurers); § 680A.190 (authorizing commissioner to suspend or revoke insurer's license for failure to cure impairment of capital or surplus). The "direct-conflict" test impedes

(Cont'd)

The Ninth Circuit's decision, however, overturns this system, which has not only been in place for at least the past fifty years, but also has worked reasonably well until the recent "direct-conflict" decisions of the Ninth Circuit and some other Courts of Appeals have opened the federal door by improperly permitting RICO actions based on alleged wrongdoings with respect to insurance policies. As demonstrated above, an aggrieved insured who is given the choice between a RICO lawsuit and administrative measures by the state insurance commissioner, will almost always choose RICO because it offers potentially far greater individual returns than the typical state insurance statute.

Insurers, such as the CCIA's members, will have to accommodate themselves to this new situation. As observed previously, such accommodation will be manifested by a far lower degree of willingness among insurers to agree with an insurance commissioner to settle disputes over alleged violations of insurance laws for fear of compromising their positions in pending or threatened RICO litigation. *Ambrose, supra.* Correspondingly, state insurance departments will play less of a role in resolving disputes with respect to the business of insurance, and federal courts adjudicating RICO claims will become paramount. Instead of state insurance departments being the initial, if not the final, arbiters of alleged insurance code violations, federal judges and juries will now decide whether

(Cont'd)
the fulfillment of this state interest by creating new and costly liabilities under RICO, and thereby undermines the state's policy choices. States have chosen not to provide broad private rights of action for violations of state unfair insurance practices laws; they have not provided for automatic multiplication of damages, or for the payment of attorneys' fees. Instead, they have most commonly provided for administrative remedies effected by the insurance commissioners. Under such circumstances, the application of RICO and the provision of RICO damages undermines the states' interest of protecting its citizen policyholders by ensuring that insurers remain financially sound.

the conduct of insurers violates RICO, regardless of whether that conduct was previously approved or regulated by the state. Moreover, insurance department approvals will carry little meaning and will provide little protection, if any, to insurers in light of the enormous new RICO liabilities opened up by the "direct-conflict" test. The fulcrum of insurance regulation will shift from the states to federal courts adjudicating RICO claims.

Insurers, who have hitherto relied upon state insurance department approvals for their policies, rates and regulated practices will have to restructure their policies, premium rates and other practices to conform to RICO standards and the new risks presented by the newly-developed liabilities. Thereby, additional state insurance statutes will be impaired or superseded and the business of insurance will come to be regulated, not by the states as the McCarran-Ferguson Act had decreed, but by the shifting decisions of federal judges and juries across the land. As demonstrated above, and by the Petitioners' Brief, such a result is not even remotely supported by the express language of the Act, its stated purposes and its legislative history.

CONCLUSION

Petitioners' Brief demonstrates that the "direct-conflict" test ignores the express terms of the McCarran-Ferguson Act (and introduces terms into the Act which Congress did not include therein); it ignores Congress's intent and purpose; it undermines the states' policy choices; and it misapplies preemption analysis despite Congress's clear enactments that insurance regulation will be left to the states unless Congress enacts a law which specifically relates to the business of insurance. This brief adds that the "direct-conflict" test will impair or supersede an enormous number of state insurance statutes, such as the states' unfair insurance practices laws, and policy form and rate approval laws. In addition, application of RICO to conduct

concerning the business of insurance severely impedes realization of the purposes of the McCarran-Ferguson Act, as set forth in the Act itself. Any one of these reasons would be independently sufficient to reject the "direct-conflict" test; collectively, they compel the rejection of that test in the context of the McCarran-Ferguson Act. This Court should clarify that operation of the McCarran-Ferguson Act *is not limited to a "direct conflict"* between application of a general federal statute and a state statute, the purpose of which is the regulation of the business of insurance, and that the Act bars the application of the federal RICO statute to conduct regulated by state statutes enacted for the purpose of regulating the business of insurance.

Respectfully submitted,

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August 11, 1998

APPENDIX

APPENDIX A — SURVEY OF STATE STATUTES REQUIRING THE FILING AND APPROVAL OF POLICY FORMS

STATE	STATUTE	TEXT
Alabama	Ala. Code § 27-14-8(a)	No basic insurance policy . . . shall be delivered or issued for delivery in this state unless the form has been filed with, and approved by, the commissioner.
Alabama	Ala. Code § 27-14-9	The commissioner may disapprove any form filed under section 27-14-8 or withdraw any previous approval thereof . . .
Alaska	Alaska Stat. § 21.42.120(a)	A basic insurance policy . . . may not be delivered, or issued for delivery in this state, unless the form has been filed with and approved by the director.
Alaska	Alaska Stat. § 21.42.130	The director shall disapprove a form filed under AS 21.42.120 or withdraw a previous approval of the form . . .

STATE	STATUTE	TEXT
Arizona	Ariz. Rev. Stat. Ann. § 20-1111 A.	The director shall disapprove any form of policy, application, rider or endorsement or withdraw any previous approval thereof . . .
Arkansas	Ark. Code Ann. § 23-79-109(a)	No basic insurance policy . . . shall be issued, delivered, or used as to a subject of insurance resident, located, or to be performed in this state unless the form has been filed with and approved by the commissioner . . .
Arkansas	Ark. Code Ann. § 23-79-110(a)	The commissioner shall disapprove any form filed under § 23-79-109, or withdraw any previous approval . . .
Delaware	Del. Code Ann. tit. 18 § 2712(a)	No basic insurance policy . . . shall be delivered or issued for delivery in this State, unless the form has been filed with the Commissioner.

STATE	STATUTE	TEXT
Delaware	Del. Code Ann. tit. 18 § 2713	The Commissioner shall disapprove any form filed under § 2712 of this title, or withdraw any previous effectiveness thereof . . .
District of Columbia	D.C. Code Ann. § 35-1531	The Commissioner may require that all policy forms used by every company covering risks in the District be filed with the Commissioner.
Florida	Fla. Stat. Ann. § 627.410(1)	No basic insurance policy . . . shall be delivered or issued for delivery in this state, unless the form has been filed with the department . . . and has been approved by the department.
Florida	Fla. Stat. Ann. § 627.411(1)	The department shall disapprove any form filed under § 627.410, or withdraw any previous approval thereof, . . .

STATE	STATUTE	TEXT
Georgia	Ga. Code Ann. § 33-24-9(a)	No basic insurance policy . . . shall be delivered or issued for delivery in this state unless the form has been filed with and approved by the Commissioner.
Georgia	Ga. Code Ann. § 33-24-10	The Commissioner shall disapprove any form filed under Code Section 33-24-9 or withdraw any previous approval of such form . . .
Idaho	Idaho Code § 41-1812(1)	No basic insurance policy . . . shall be delivered, or issued for delivery in this state, unless the form has been filed with the director.
Idaho	Idaho Code § 41-1813	The director shall disapprove any form filed under section 41-1812, or withdraw any previous approval thereof, . . .

STATE	STATUTE	TEXT
Illinois	215 Ill. Comp. Stat. Ann. 5/143 (2)	. . . The Director shall require the filing of all policy forms issued or delivered by any company . . .
Illinois	215 Ill. Comp. Stat. Ann. 5/143 (2)	. . . If the Director shall find from an examination of any such policy form . . . that it (i) violates any provision of this Code, (ii) contains inconsistent, ambiguous, or misleading clauses, or (iii) contains exceptions and conditions that will unreasonably or deceptively affect the risks that are purported to be assumed by the policy, he shall order the company or companies issuing these forms to discontinue their use.
Indiana	Ind. Code Ann. § 244.5-4-203 (2)	. . . [A]ll policies, certificates of insurance, notices of proposed insurance, applications for insurance, endorsements and riders relating to consumer

STATE	STATUTE	TEXT
		credit insurance delivered or issued for delivery in this state . . . shall be filed by the insurer with the insurance commissioner.
Indiana	Ind. Code Ann. § 244.5-4-203 (1)	A creditor may not use a form . . . the filing of which is required by this section, if the insurance commissioner has disapproved the form or schedule and has notified the insurer of his disapproval.
Iowa	Iowa Code Ann. § 515.109 1.	The form of all policies . . . issued or proposed to be issued by any insurance company doing business in this state under the provisions of this chapter, shall first be examined and approved by the commissioner of insurance.

STATE	STATUTE	TEXT
Kansas	Kan. Stat. Ann. § 40-216	. . . No contract of insurance or indemnity shall be issued or delivered in this state until the form of the same has been filed with the commissioner of insurance . . .
Kentucky	Ky. Rev. Stat. Ann. § 304.14-120(1)	No basic insurance policy . . . shall be delivered, or issued for delivery in this state, unless the form has been filed with and approved by the commissioner.
Kentucky	Ky. Rev. Stat. Ann. § 304.14-130(1)	The commissioner shall disapprove any form filed under KRS 304.14-120, or withdraw any previous approval thereof . . .
Louisiana	La. Rev. Stat. Ann. § 22:620 A.	No basic insurance policy form . . . shall be issued, delivered, or used unless it has been filed with and approved by the commissioner of insurance.

STATE	STATUTE	TEXT
Louisiana	La. Rev. Stat. Ann. § 22:621	The commissioner of insurance shall disapprove any such form of policy, application, rider, or endorsement, or withdraw any previous approval thereof, . . .
Maine	Me. Rev. Stat. Ann. tit. 24-A § 2412 1.	An insurance policy . . . may not be delivered or issued for delivery in this State unless the form has been filed with and approved by the superintendent.
Maine	Me. Rev. Stat. Ann. tit. 24-A § 2413 1.	The superintendent shall disapprove any form filed under section 2412, or withdraw any previous approval thereof . . .
Maryland	Md. Code Ann., Ins. § 11-206 (a)(1)	Except as otherwise provided in this section, each insurer shall file with the Commissioner all . . . policy forms, and endorsements that the insurer proposes to use.

STATE	STATUTE	TEXT
Maryland	Md. Code Ann., Ins. § 11-206 (g)(3)	A filing is deemed approved unless disapproved by the Commissioner . . . .
Massachusetts	Mass. Gen. Laws Ann. ch. 175 § 111A	. . . No such policy shall be issued or delivered until a copy of the form thereof has been on file for thirty days with the commissioner, unless before the expiration of said thirty days he shall have approved the form of the policy in writing. . . .
Massachusetts	Mass. Gen. Laws Ann. ch. 175 § 193H	The commissioner may at any time give notice to the insurer of his intention to withdraw his approval of any form. . . .
Michigan	Mich. Comp. Laws Ann. § 500.2236(1)	A basic insurance policy form . . . shall not be issued or delivered to a person in this state . . . until a copy of the form is filed with the insurance bureau and approved by the commissioner . . .

STATE	STATUTE	TEXT
Michigan	Mich. Comp. Laws Ann. § 500.2236 (5)	Upon written notice to the insurer, the commissioner may disapprove, withdraw approval or prohibit the issuance . . . of any form . . . of the policy.
Minnesota	Minn. Stat. Ann. § 72C.10 Subd. 1.	No insurer shall make, issue, amend, or renew any policy or contract . . .unless the contract is in compliance with the requirements of sections 72C.06 to 72C.09 and unless the contract is filed with the commissioner for approval.
Mississippi	Miss. Code Ann. § 83-2-7(1)	Except as provided in § 83-2-9 and subsection (2) of this section, every insurer shall file with the commissioner all . . . policy forms and endorsements at least thirty (30) days prior to the proposed effective date which shall be stated in the filing.

STATE	STATUTE	TEXT
Mississippi	Miss. Code Ann. § 83-2-11(1)	The commissioner shall disapprove a . . . policy form or endorsement if the commissioner finds that the . . . policy form or endorsement . . . :
Montana	Mont. Code Ann. § 33-1-501(1)(a)	An insurance policy . . . may not be delivered or issued for delivery in Montana unless the form has been filed with and approved by the commissioner . . .
Montana	Mont. Code Ann. § 33-1-502	The commissioner shall disapprove any form filed under 33-1-501 or withdraw any previous approval thereof . . .
Nebraska	Neb. Rev. Stat. § 44-5020(2)(a)	. . . [A]n insurer shall file all forms and any related attachment rules with the director prior to use.

STATE	STATUTE	TEXT
Nebraska	Neb. Rev. Stat. § 44-5021 (1)	If . . . the director finds that a filing does not meet the requirements of the Property and Casualty Insurance Rate and Form Act, he or she shall send written notice of disapproval . . .
Nevada	Nev. Rev. Stat. § 686B.070	Every authorized insurer . . . shall file with the commissioner all: . . . 2. Forms of policies to which the rates apply . . .
New Jersey	N.J. Stat. Ann. § 17:29AA-6	. . . [I]nsurers shall file copies of all policy forms for approval with the commissioner at least 30 days prior to becoming effective.
New Jersey	N.J. Stat. Ann. § 17:29AA-13	If the commissioner finds, after a hearing, that a . . . policy form in effect for any . . . insurer . . . is not in compliance with the standards of this act, he shall

STATE	STATUTE	TEXT
		issue an order specifying in what respects it so fails, and stating when . . . such . . . form shall be deemed no longer effective.
New Mexico	N.M. Stat. Ann. § 59A-18-12 A.	No insurance policy . . . shall be delivered or issued for delivery in this state . . . until a copy of the form and the classification of risks pertaining thereto have been filed with the superintendent.
New Mexico	N.M. Stat. Ann. § 59A-18-14 A.	The superintendent shall review any filing made pursuant to Section 59A-18-12 . . . within sixty days of the filing date. The superintendent shall . . . disapprove any form or rate . . .
New York	N.Y. Ins. Law § 2307(b)	No policy form shall be delivered or issued for delivery unless it has been filed with the superintendent and . . . he has approved it . . .

STATE	STATUTE	TEXT
New York	N.Y. Ins. Law § 2311(a)	Under such rules and regulations as he shall adopt, the superintendent may, by order, suspend or modify the requirements of filing as to any kind of insurance, subdivision or combination thereof . . . before they are used.
North Carolina	N.C. Gen. Stat. § 58-38-30(a)	No insurer may make, issue, amend, or renew any insurance policy . . . unless the policy is filed with the Commissioner for his approval.
North Carolina	N.C. Gen. Stat. § 58-51-95(c)	The Commissioner may . . . disapprove such form . . .
North Dakota	N.D. Cent. Code § 26.1-30-19 1.	No insurance policy . . . may be issued or delivered in this state until the form of that policy . . . has been filed with and approved by the commissioner.

STATE	STATUTE	TEXT
North Dakota	N.D. Cent. Code § 26.1-30-21 1.	If the commissioner disapproves any form, the commissioner shall notify the company or organization which filed the form . . . and provide written notice of disapproval . . .
Ohio	Ohio Rev. Code Ann. § 3935.04 (A)	Every insurer shall file with the superintendent of insurance . . . every form of policy, endorsement, rider, manual . . . which it proposes to use.
Ohio	Ohio Rev. Code Ann. § 3935.05 (A)	If . . . the superintendent of insurance finds that a filing does not meet the requirements of section 3935.01 to 3935.17 of the Revised Code, he shall send to the insurer . . . written notice of disapproval of the filing. . . .
Oklahoma	Okla. Stat. Ann. tit. 36 § 3610 A.	No insurance policy form . . . shall be issued, delivered, or used unless filed with and approved by the Insurance Commissioner.

STATE	STATUTE	TEXT
Oklahoma	Okla. Stat. Ann. tit. 36 § 3611 A.	The Insurance Commissioner shall disapprove any form of policy, application, rider or endorsement or withdraw any previous approval thereof . . .
Oregon	Or. Rev. Stat. § 742.003(1)	Except where otherwise provided by law, no basic policy form . . . shall be delivered or issued for delivery in this state until the form has been filed with and approved by the Director of the Department of Consumer and Business Services.
Oregon	Or. Rev. Stat. § 742.005	The Director of the Department of Consumer and Business Services shall disapprove any form requiring the director's approval: (1) If the director finds it does not comply with the law; . . . (2) If the director finds it contains any provision . . . likely to mislead a person. . . .

STATE	STATUTE	TEXT
Pennsylvania	Penn. Stat. Ann. tit. 40 § 477b	It shall be unlawful for any insurance company . . . doing business in this Commonwealth, to issue, sell, or dispose of any policy, contract, or certificate, covering . . . all forms of casualty insurance . . . or any other contract of insurance . . . in connection therewith, until the forms of the same have been submitted to and formally approved by the Insurance Commissioner . . .
Pennsylvania	Penn. Stat. Ann. tit. 40 § 477b	Such approval shall become void upon any subsequent notice of disapproval from the Insurance Commissioner . . .
South Carolina	S.C. Code Ann. § 38-61-20 (A)	It is unlawful for an insurer doing business in this State to issue or sell in this State any policy, contract, or certificate until it has been filed with and approved by the director or his designee.

STATE	STATUTE	TEXT
South Carolina	S.C. Code Ann. § 38-61-20 (A)	. . . The director or his designee may disapprove the form . . .
South Dakota	S.D. Codified Laws § 58-11-12	No basic insurance policy . . . shall be delivered or issued for delivery in this state, unless the form has been filed with and approved by the director . . .
South Dakota	S.D. Codified Laws § 58-11-21	The director shall disapprove any form filed under § 58-11-12, or withdraw any previous approval thereof . . .
Tennessee	Tenn. Code Ann. § 56-5-305(a)	Every insurer of personal risk insurance shall file with the commissioner all . . . policy forms, and endorsements at least thirty (30) days before the proposed effective date.
Tennessee	Tenn. Code Ann. § 56-5-305(d)(1)	A filing shall be deemed to meet the requirements of this part and to become effective unless disapproved by the commissioner . . . .

STATE	STATUTE	TEXT
Texas	Tex. Ins. Code Ann. § 5.15 (a)	Every insurer shall file with the Board . . . the policies and endorsement forms proposed to be used, and the information upon which the insurer supports the filing.
Texas	Tex. Ins. Code Ann. § 5.15 (b)	Any filing made pursuant to this article shall be approved by the Board unless it finds that such filing does not meet the requirements of this subchapter. . . . [A]fter the filing has been made the Board shall in writing approve or disapprove the same . . .
Utah	Utah Code Ann. § 31A-21-201(1)	No form . . . may be used, sold, or offered for sale unless it has been filed with the commissioner.
Utah	Utah Code Ann. § 31A-21-201(3)(a)	The commissioner may disapprove a form at any time upon a finding that . . .

STATE	STATUTE	TEXT
Vermont	Vt. Stat. Ann. tit. 8 § 3541(a)	No basic insurance policy . . . shall be delivered, or issued for delivery in this state, unless the form has been filed with and approved by the commissioner.
Vermont	Vt. Stat. Ann. tit. 8 § 3542	The commissioner shall disapprove any form filed under this subchapter or withdraw any previous approval thereof, . . .
Virginia	Va. Code Ann. § 38.2-317 A.	No insurance policy or endorsement . . . shall be delivered or issued for delivery in this Commonwealth unless the policy form or endorsement is filed with the Commissioner . . .
Virginia	Va. Code Ann. § 38.2-317 B.	The Commissioner may disapprove or withdraw approval of the policy form or endorsement. . . .
Washington	Wash. Rev. Code Ann. § 48.18.100(1)	No insurance policy . . . shall be issued, delivered, or used unless it has been filed with and approved by the commissioner. . . .

STATE	STATUTE	TEXT
Washington	Wash. Rev. Code Ann. § 48.18.110(1)	The commissioner shall disapprove any such form of policy, application, rider, or endorsement, or withdraw any previous approval thereof, only.
West Virginia	W. Va. Code § 33-6-8 (a)	Except as provided in section eight, article seventeen of this chapter (fire and marine forms), no insurance policy form . . . shall be delivered or issued for delivery in this state by an insurer unless it has been filed with and approved by the commissioner . . .
West Virginia	W. Va. Code § 33-6-9	The commissioner shall disapprove any such form of policy, application, rider, or endorsement or withdraw any previous approval thereof . . .
Wisconsin	Wis. Stat. Ann. § 631.20(1)	. . . No form subject to s. 631.01(1), except as exempted under s. 631.01(2) to (5), may be used unless it has been filed with and approved by the commissioner.

STATE	STATUTE	TEXT
Wisconsin	Wis. Stat. Ann. § 631.20(2)	. . . The commissioner may disapprove a form upon a finding . . .
Wyoming	Wyo. Stat. Ann. § 26-15-110(a)	No basic insurance policy . . . shall be delivered or issued for delivery in this state unless the form is filed with and approved by the commissioner.
Wyoming	Wyo. Stat. Ann. § 26-15-111(a)	The commissioner . . . shall disapprove any form filed under W.S. 26-15-110, or withdraw any previous approval thereof . . .

APPENDIX B — SURVEY OF STATE STATUTES REQUIRING THE FILING AND APPROVAL OF PREMIUM RATES

STATE	STATUTE	TEXT
Alabama	Ala. Code § 27-13-29	. . . [E]very insurer shall, before using or applying any rate to any kind of insurance coming within the scope of this article, file with the department a copy of the rating system upon which such rate is based or by which such rate is fixed or determined.
Alabama	Ala. Code § 27-13-30	If . . . the commissioner shall find that such rating systems . . . result in or produce rates that are unreasonably high or excessive, or are not adequate for the safeness and soundness of the insurer or are unfairly discriminatory between risks in this state involving essentially the same hazards, he shall issue an order . . . directing that such rating systems be altered in the manner, and to the extent, stated in such order to produce rates that are reasonable and adequate and not unfairly discriminatory.

STATE	STATUTE	TEXT
Alaska	Alaska Stat. § 21.39.040(a)	Each insurer shall file with the director . . . every manual, minimum, class rate, rating schedule, or rating plan and every other rating rule, and each modification of any of them that it proposes to use.
Alaska	Alaska Stat. § 21.39.040(f)	The director may . . . suspend or modify the requirement of filing on a kind of insurance, subdivision or combination of them, or on classes of risks, the rates for which . . . the filing and approval of which are, in the director's opinion, not desirable or necessary for the protection of the public.
Arizona	Ariz. Rev. Stat. Ann. § 20-357A.	Every insurer shall file with the director the rating systems which it proposes to use. . . . [T]he term "rating systems" includes every manual of classifications, rules and rates, every rating plan, and every modification of any of the foregoing.

STATE	STATUTE	TEXT
Arizona	Ariz. Rev. Stat. Ann. § 20-388	If the director finds that a rate is not in compliance with Section 20-383, the director shall issue an order specifying in what respects it so fails and stating that, within thirty days after the order is issued, the rate is no longer effective.
Arkansas	Ark. Code Ann. § 23-67-211	(a) . . . (1) In a competitive market, every insurer shall file with the commissioner all rates, supplementary rate information, and supporting information for risks which are to be written in this state. (b) . . . In a noncompetitive market, every insurer shall file with the commissioner all rates for that market.
Arkansas	Ark. Code Ann. § 23-67-213	(1) The commissioner may disapprove a rate without a hearing if the insurer fails to file the information required pursuant to this chapter.

STATE	STATUTE	TEXT
		(2) The commissioner may disapprove a rate without a hearing . . .
California	Cal. Ins. Code § 1861.05(B)	Every insurer . . . shall file a complete rate application with the commissioner.
Colorado	Colo. Rev. Stat. Ann. § 10-4-405(1)	. . . [E]very insurer shall file with the commissioner every manual of classifications, rules, and rates, every rating plan, and every modification of any of the foregoing which it proposes to use in this state.
Colorado	Colo. Rev. Stat. Ann. § 10-4-406(1)	Upon receipt of filings required under the provisions of section 10-4-405(1), the commissioner shall review, or cause to be reviewed, the same . . . in order to determine whether they meet the requirements of this part 4.

STATE	STATUTE	TEXT
Connecticut	Conn. Gen. Stat. Ann. § 38a-688(a)	The following procedures shall apply with respect to rates pertaining to personal risk insurance and residual markets: (1) In a competitive market, every insurer shall file with the commissioner all rates . . . to be used in this state, provided that such rates and information need not be filed for inland marine risks which by general custom of the business are not written according to manual rules or rating plans. (2) In a noncompetitive market, every insurer shall file with the commissioner all rates . . . for that market and such supporting information as is required by the commissioner. . . .

STATE	STATUTE	TEXT
Connecticut	Conn. Gen. Stat. Ann. § 38a-688(b)(2)	The commissioner may disapprove a rate if the insurer fails to comply with the filing requirements of this section.
Delaware	Del. Code Ann. tit. 18 § 2504(a)	Every insurer shall file with the Commissioner, except as to inland marine risks which by general custom of the business are not written according to manual rates or rating plans, every manual, minimum, class rate, rating schedule or rating plan . . . which it proposes to use.
Delaware	Del. Code Ann. tit. 18 § 2506(a)	The Commissioner shall review filings as soon as reasonably possible after they have been made in order to determine whether they meet the requirements of this chapter. The filings shall be deemed to meet the requirements of this chapter unless disapproved by the Commissioner . . .

STATE	STATUTE	TEXT
District D.C. of Columbia	Code Ann. § 35-1704(a)	. . . [E]very company shall file with the Commissioner . . . except as to rates on inland marine risks which are not made by a rating organization and which by general custom of the business are not written according to manual rates or rating plans, all rates and rating plans, rules, and classifications which it uses or proposes to use in the District.
Florida	Fla. Stat. Ann. § 627.062 (2)(a)	Insurers . . . shall establish and use rates, rating schedules, or rating manuals to allow the insurer a reasonable rate of return on such classes of insurance written in this state. A copy of rates . . . shall be filed with the department . . .

STATE	STATUTE	TEXT
Florida	Fla. Stat. Ann. § 627.062 (2)(g)	The department may at any time review a rate, rating schedule, rating manual, or rate change; . . . If the department finds . . . that a rate may be excessive, inadequate, or unfairly discriminatory, the department shall . . . disapprove the rate and shall so notify the insurer. . . .
Georgia	Ga. Code Ann. § 33-9-21	(a) Every insurer shall maintain with the Commissioner copies of the rates, rating plans, rating systems, underwriting rules, and policy or bond forms used by it . . . (d) Any domestic, foreign, or alien insurer that is authorized to write insurance in this state must file with the Commissioner any rate, rating plan, rating system, or underwriting rule at least 45 days prior to any indicated effective date for all insurance . . .

STATE	STATUTE	TEXT
Georgia	Ga. Code Ann. § 33-9-23(a)	The Commissioner may, at any reasonable time, make or cause to be made an examination of every admitted insurer transacting any class of insurance to which this chapter is applicable to ascertain whether the insurer and every rate and rating system used by it for each class of insurance complies with the requirements and standards of this chapter applicable thereto.
Hawaii	Haw. Rev. Stat. Ann. § 431:14-104(a)	Every insurer shall file . . . with the commissioner, except as to specific inland marine risks which by general custom of the business are not written according to manual rate or rating plans, every manual of classifications, rules, and rates, every rating plan, and every other rating rule . . . which it proposes to use.

STATE	STATUTE	TEXT
Hawaii	Haw. Rev. Stat. Ann. § 431:14-106(a)	If . . . the commissioner finds that a filing does not meet the requirements of this article, the commissioner shall send . . . written notice of disapproval of the filing . . .
Illinois	215 Ill. Comp. Stat. Ann. 5/488.1	. . . The Director may require submission of copies of the rates, rating schedules and rating manuals of a company as he deems necessary and proper.
Indiana	Ind. Code Ann. § 27-1-22-4(a)	Every insurer shall file with the commissioner, except as to inland marine risks which by general custom of the business are not written according to manual rates or rating plans, every manual of classifications, rules, and rates, every rating schedule, every rating plan . . . which it proposes to use.

STATE	STATUTE	TEXT
Indiana	Ind. Code Ann. § 27-1-22-5(a)	. . . [T]he commissioner, if he shall have reason to believe that any filing is not in compliance with the applicable provisions of section 3 of this chapter, or in the case of an alleged violation of section 6 of the chapter if he finds on the basis of the information on file with the department that there has been a prima facie showing of a violation of that section, shall hold a hearing upon not less than ten (10) days written notice to the rating organization or insurer which made the filing in issue, specifying the items and matters to be considered and stating in what manner and to what extent noncompliance is alleged to exist.
Iowa	Iowa Code Ann. § 515F.5 1.	An insurer shall file with the commissioner, except as to inland marine risks which are not written according to

STATE	STATUTE	TEXT
		manual rates or rating plans, every manual, minimum premium, class rate, rating schedule, rating plan . . . which it proposes to use.
Iowa	Iowa Code Ann. § 515F.6 1.	If . . . the commissioner finds that a filing does not meet the requirements of this chapter, written notice of disapproval shall be sent to the insurer or advisory organization which made the filing . . .
Kentucky	Ky. Rev. Stat. Ann. § 304.13-051	(1) In a competitive market, every insurer shall file with the commissioner rates and supplementary information to be used in this state for commercial risks as designated by the commissioner and for all personal risks.

STATE	STATUTE	TEXT
		(2) In a noncompetitive market, every insurer shall file with the commissioner all rates for that market, supplementary rate information, and supporting information at least thirty (30) days before the proposed effective date of the rates.
Kentucky	Ky. Rev. Stat. Ann. § 304.13-071(1)	Existing rates in a noncompetitive market may be disapproved . . .
Louisiana	La. Rev. Stat. Ann. § 22:1407 A.(1)	Every insurer whose rates are subject to regulation under the provisions of this Part shall file with the respective divisions . . . every manual, minimum, class rate, rating schedule or rating plan . . . which it proposes to use.

STATE	STATUTE	TEXT
Louisiana	La. Rev. Stat. Ann. § 22:1408 A.	If within the waiting period or any extension thereof as provided in Subsection D of R.S. 22:1407, the respective division finds that a filing does not meet the requirements of this Part, it shall send to the insurer or rating organization which made such filings, written notice of disapproval . . .
Maine	Me. Rev. Stat. Ann. tit. 24-A § 2304-A 1.	Every insurer shall file with the superintendent, except as to inland marine risks which by general custom of the business are not written according to manual rates or rating plans, every manual rate, minimum premium, class rate, rating schedule or rating plan . . . which it proposes to use.

STATE	STATUTE	TEXT
Maine	Me. Rev. Stat. Ann. tit. 24-A § 2306 1.	If at any time the superintendent has reason to believe that a filing does not meet the requirements of this chapter, or violates any of the provisions of chapter 23, the superintendent shall . . . issue an order specifying in what respects the superintendent finds that such filing fails to meet the requirements of this chapter, and stating when . . . such filing shall be deemed no longer effective.
Maryland	Md. Code Ann., Ins. § 11-206 (a)(1)	. . . [E]ach insurer shall file with the Commissioner all rates, supplementary rate information, . . . and all modifications of rates, supplementary rate information, . . . and endorsements that the insurer proposes to use.

STATE	STATUTE	TEXT
Maryland	Md. Code Ann., Ins. § 11-208 (a)	. . . Unless the filer demonstrates that a proposed rate is not excessive, inadequate, or unfairly discriminatory, the Commissioner may disapprove the filing.
Massachusetts	Mass. Gen. Laws Ann. ch. 175A § 6(a)	Every insurer shall file with the commissioner or his designated representative every manual of classifications, rules and rates, every rating plan and every modification of any of the foregoing which it proposes to use.
Massachusetts	Mass. Gen. Laws Ann. ch. 175A § 7(a)	If at any time the commissioner finds that a filing does not meet the requirements of this chapter, he shall . . . issue an order . . . stating . . . such filing shall be deemed no longer effective.

STATE	STATUTE	TEXT
Michigan	Mich. Comp. Laws Ann. § 500.2606(1)	Every insurer shall file with the commissioner, except as to inland marine risks which by general custom of the business are not written according to manual rates or rating plans, every manual, minimum, class rate, rating schedule or rating plan . . . which it proposes to use.
Michigan	Mich. Comp. Laws Ann. § 500.2616 (1)	If . . . the commissioner finds that a filing does not meet the requirements of this chapter, he shall send to the insurer or rating organization which made such filing, written notice of disapproval of such filing . . .
Minnesota	Minn. Stat. Ann. § 70A.06 Subdiv. 1.	Every licensed insurer . . . shall file with the commissioner all rates and all changes and amendments of rates made by it for use in this state not later than their effective date.

STATE	STATUTE	TEXT
Minnesota	Minn. Stat. Ann. § 70A.11 Subdiv. 1.	. . . If the commissioner finds . . . that a rate is not in compliance with section 70A.04, the commissioner shall order that its use is to be discontinued . . .
Mississippi	Miss. Code Ann. § 83-2-7(1)	Except as provided in § 83-2-9 and subsection (2) of this section, every insurer shall file with the commissioner all rates, supplementary rate information . . . at least thirty (30) days prior to the proposed effective date which shall be stated in the filing.
Mississippi	Miss. Code Ann. § 83-2-11(1)	The commissioner shall disapprove a rate . . . if the commissioner finds that the rate is unjustified . . .
Missouri	Mo. Ann. Stat. § 379.321 1.	Every insurer shall file with the director, except as to inland marine

STATE	STATUTE	TEXT
		risks which by regulation . . . are not written according to manual rates or rating plans, every manual of classifications, rules, underwriting rules and rates, every rating plan and every modification of the foregoing which it uses and . . . to which such rates are applied.
Montana	Mont. Code Ann. § 33-16-203(1)	Every insurer . . . shall file with the commissioner all rates intended for use within this state, together with supporting data sufficient to substantiate such filing.
Montana	Mont. Code Ann. § 33-16-205	If, after examination . . . the commissioner has good cause to believe that . . . any rate, rating plan, or rating system made or used by any such

STATE	STATUTE	TEXT
		insurer or rating organization does not comply with the requirements and standards of this chapter applicable to it, he shall . . . give notice, . . . stating therein in what manner and to what extent such noncompliance is alleged to exist . . .
Nebraska	Neb. Rev. Stat. § 44-5020 (1)(a)	. . . [E]ach insurer shall file with the director every rating system and every modification thereof which it proposes to use.
Nebraska	Neb. Rev. Stat. § 44-5021 (1)	If . . . the director finds that a filing does not meet the requirements of the Property and Casualty Insurance Rate and Form Act, he or she shall send written notice of disapproval . . .

STATE	STATUTE	TEXT
Nevada	Nev. Rev. Stat. § 686B.070	Every authorized insurer . . . shall file with the commissioner all: 1. Rates and proposed increases thereto . . .
Nevada	Nev. Rev. Stat. § 686B.110 1.	. . . If the commissioner finds that a proposed increase will result in a rate which is not in compliance with NRS 686B.050, he shall disapprove the proposal.
New Hampshire	N.H. Rev. Stat. Ann. § 414:4 II.	For casualty insurance, every insurer shall file with the commissioner every manual of classifications, rules and rates, every rating plan and every modification of any of the foregoing which it proposes to use.

STATE	STATUTE	TEXT
New Hampshire	N.H. Rev. Stat. Ann. § 414:5 I.	If at any time the commissioner finds that a filing does not meet the requirements of this chapter, he shall disapprove the same.
New Jersey	N.J. Stat. Ann. § 17:29AA-5	. . . [E]very authorized and admitted insurer and every rating organization shall file with the commissioner all rates and supplementary rate information . . . made by it for use in this State not later than 30 days after becoming effective.
New Jersey	N.J. Stat. Ann. § 17:29AA-13	If the commissioner finds, after a hearing, that a rate . . . in effect for any rating organization or insurer . . . is not in compliance with the standards of this act, he shall issue an order specifying in what respects it so fails, and stating when . . . such rate . . . shall be deemed no longer effective.

STATE	STATUTE	TEXT
New Mexico	N.M. Stat. Ann. § 59A-17-9	. . . [E]very insurer or the rate service organization designated by the insurer for filing of rates . . . shall file with the superintendent all rates and supplementary rate information and all changes and amendments thereof made by it for use in this state at least sixty days before they become effective.
New Mexico	N.M. Stat. Ann. § 59A-17-13A.	The superintendent shall within sixty days after the filing of a rate under Section 59A-17-9 . . . disapprove any rate if he finds that it does not comply with those provisions.
New York	N.Y. Ins. Law § 2307(a)	No insurer or rate service organization shall use a rating classification or territory unless it has been filed with the superintendent and either he has

STATE	STATUTE	TEXT
		approved it, or ninety days have elapsed and he has not disapproved it as unfairly discriminatory or violative of public policy.
New York	N.Y. Ins. Law § 2311(a)	Under such rules and regulations as he shall adopt, the superintendent may, by order, suspend or modify the requirements of filing as to any kind of insurance . . .
North Carolina	N.C. Gen. Stat. § 58-41-50(b)	. . . [A]ll rates . . . must be filed with the Commissioner . . . before they may be used in this State.
North Dakota	N.D. Cent. Code § 26.1-25-04 1.	Every insurer shall file with the commissioner, except as to inland marine risks which by general custom of the business are not written according

STATE	STATUTE	TEXT
		to manual rates or rating plans, every manual, minimum class rate, rating schedule or rating plan, and every other rating rule . . . which it proposes to use.
North Dakota	N.D. Cent. Code § 26.1-25-05 1.	If . . . the commissioner finds that a filing does not meet the requirements of this chapter, the commissioner shall send to the insurer or advisory organization which made the filing written notice of disapproval of the filing . . .
Ohio	Ohio Rev. Code Ann. § 3935.04 (A)	Every insurer shall file with the superintendent of insurance, except as to inland marine risks which by general custom of the business are not written

STATE	STATUTE	TEXT
		according to manual rates or rating plans, every form of a policy . . . minimum class rate, rating schedule, or rating plan, and every other rating rule . . . which it proposes to use.
Ohio	Ohio Rev. Code Ann. § 3935.05 (A)	If . . . the superintendent of insurance finds that a filing does not meet the requirements of section 3935.01 to 3935.17 of the Revised Code, he shall send . . . written notice of disapproval of the filing . . .
Oklahoma	Okla. Stat. Ann. tit. 36 § 903 A.1	. . . [E]very insurer governed by the provisions of this act shall file with the Board . . . all rates and rating plans . . . which it uses or proposes to use in this state except as otherwise provided in this section.

STATE	STATUTE	TEXT
Oklahoma	Okla. Stat. Ann. tit. 36 § 903 L.	If the Board finds that a filing does not meet the requirements of this act, it shall send to the insurer or rating organization which made such filing, written notice of disapproval of such filing . . .
Oregon	Or. Rev. Stat. § 737.205	(1) Every insurer shall file with the Director of the Department of Consumer and Business Services copies of the rates, rating plans and rating systems used by it.
Pennsylvania	Penn. Stat. Ann. tit. 40 § 1184	(a) Every insurer shall file with the commissioner every manual of classifications, rules and rates, every rating plan and every modification of any of the foregoing which it proposes to use in this Commonwealth.

STATE	STATUTE	TEXT
Pennsylvania	Penn. Stat. Ann. tit. 40 § 1185	(a) Upon the review at any time by the Commissioner of a filing he shall . . . issu[e] an order of disapproval. . . .
Rhode Island	R.I. Gen. Laws § 27-6-8 (a)	Every insurer shall file with the commissioner, except as to inland marine risks which by general custom of the business are not written according to manual rates or rating plans, every manual, minimum, or class rate, rating schedule or rating plan . . . which it proposes to use . . .
Rhode Island	R.I. Gen. Laws § 27-6-17	If . . . the commissioner finds that a filing does not meet the requirements of this chapter, the commissioner shall send . . . written notice of disapproval . . .

STATE	STATUTE	TEXT
South Carolina	S.C. Code Ann. § 38-73-340	Every insurer shall file with the department . . . every manual, minimum, or class rate, rating schedule, or rating plan . . . which it proposes to use.
South Dakota	S.D. Codified Laws § 58-24-10	Every insurer shall file with the director of the Division of Insurance every manual, minimum, class rate, rating schedule or rating plan . . . which it proposes to use.
South Dakota	S.D. Codified Laws § 58-24-19	If . . . the director finds that a filing does not meet the requirements of this chapter, he shall send . . . written notice of disapproval of such filing . . .

STATE	STATUTE	TEXT
Tennessee	Tenn. Code Ann. § 56-5-305(a)	Every insurer of personal risk insurance shall file with the commissioner all rates, supplementary rate information, . . . and endorsements at least thirty (30) days before the proposed effective date.
Tennessee	Tenn. Code Ann. § 56-5-308 (a)	. . . The commissioner shall disapprove a rate if . . . [t]he commissioner finds that the rate is excessive, inadequate or unfairly discriminatory. . . .
Texas	Tex. Ins. Code Ann. § 5.15 (a)	Every insurer shall file with the Board every manual of classifications, rules and rates, every rating plan and every modification of any of the foregoing which it proposes to use.
Texas	Tex. Ins. Code Ann. § 5.15 (b)	Any filing made pursuant to this article shall be approved by the Board unless it finds that such filing does not meet the requirements of this subchapter. . . .

STATE	STATUTE	TEXT
		[A]fter the filing has been made the Board shall in writing approve or disapprove the same . . .
Utah	Utah Code Ann. § 31A-19-203(1)(a)	. . . [E]very authorized insurer . . . shall file with the commissioner all rates . . . that are made by it for use in this state.
Utah	Utah Code Ann. § 31A-19-207(1)	If the commissioner finds . . . that a rate is not in compliance with Section 31A-19-201, the commissioner shall order that its use be discontinued for any policy issued or renewed after a date given in the order.
Vermont	Vt. Stat. Ann. tit. 8 § 4688	(a) . . . [I]n a competitive market every insurer shall file with the commissioner all rates and supplementary rate information . . . which are to be used in this state, provided that such rates . . .

STATE	STATUTE	TEXT
Vermont	Vt. Stat. Ann. tit. 8 § 4689	(a) Timing of approval or disapproval. (1) A rate may be disapproved at any time subsequent to the effective date. (2) A rate subject to prefiling may also be disapproved before the effective date.
Virginia	Va. Code Ann. § 38.2-1906 A.	Each authorized insurer subject to the provisions of this chapter shall file with the Commission all rates and supplementary rate information . . . made by it for use in this Commonwealth on or before the date they become effective.
Virginia	Va. Code Ann. § 38.2-1910 A.	If the Commission finds . . . that a rate is not in compliance . . . or is in violation of . . . the Commission shall order that use of the rate be discontinued for any policy issued or renewed after a date specified in the order.

STATE	STATUTE	TEXT
Washington	Wash. Rev. Code Ann. § 48.19.040 (1)	Every insurer or rating organization shall, before using, file with the commissioner every classifications manual, manual of rules and rates, rating plan, rating schedule, minimum rate, class rate, and rating rule . . . which it proposes.
Washington	Wash. Rev. Code Ann. § 48.19.100	If . . . the commissioner finds that a filing does not meet the requirements of this chapter, he shall disapprove such filing, and shall give notice of such disapproval . . .

STATE	STATUTE	TEXT
West Virginia	W. Va. Code § 33-20-4 (a)(1)	Every insurer shall file with the commissioner every manual of classifications, territorial rate areas established . . . rules and rates, every rating plan and every modification of any of the foregoing which it proposes to use for casualty insurance to which this article applies.
West Virginia	W. Va. Code § 33-20-5(a)	If . . . the commissioner finds that a filing does not meet the requirements of this article, he shall send . . . written notice of disapproval of such filing . . .
Wisconsin	Wis. Stat. Ann. § 625.13 (1)	[E]very authorized insurer . . . shall file with the commissioner all rates and supplementary rate information and all changes and amendments thereof made by it for use in this state within 30 days after they become effective.

STATE	STATUTE	TEXT
Wisconsin	Wis. Stat. Ann. § 625.22 (1)	. . . If the commissioner finds after a hearing that a rate is not in compliance with § 625.11, the commissioner shall order that its use be discontinued for any policy issued or renewed after a date specified in the order.
Wyoming	Wyo. Stat. Ann. § 26-14-107	(a) In competitive markets, every insurer shall maintain all rates and supplementary rate information to be used in this state . . . and such information shall be made available to the commissioner upon his request. (b) In noncompetitive markets, every insurer shall file with the commissioner all rates, supplementary rate information and supporting information for noncompetitive markets at least thirty (30) days before the proposed effective date.

STATE	STATUTE	TEXT
Wyoming	Wyo. Stat. Ann. § 26-14-108 (a)	The commissioner shall disapprove a rate for use in a noncompetitive market if he finds pursuant to subsection (b) of this section that the rate is excessive, inadequate or unfairly discriminatory.

APPENDIX C — SURVEY OF STATE STATUTES WHICH HAVE EXPRESSLY ENACTED INSURANCE REGULATORY LAWS IN RESPONSE TO THE McCARRAN-FERGUSON ACT

STATE	STATUTE	TEXT
Alabama	Ala. Code § 27-12-1(a)	The purpose of this chapter is to regulate trade practices in the business of insurance in accordance with the intent of congress as expressed in the Insurance Regulation Act by defining, or providing for the determination of, all such practices in this state which constitute unfair methods of competition or unfair or deceptive acts or practices and by prohibiting the trade practices so defined or determined.
Alaska	Alaska Stat. § 21.36.010	The purpose of this chapter is to regulate trade practices in the business of insurance in accordance with the intent of Congress as expressed in the Act of Congress of March 9, 1945 (P.L. 79-15; ch. 20, 59 Stat. 33), by defining or providing for determination of all the practices in this state that constitute unfair methods of competition or unfair or deceptive acts or practices and by prohibiting them.

STATE	STATUTE	TEXT
Arizona	Ariz. Rev. Stat. Ann. § 20-441.A.	Among the purposes of this article is the regulation of trade practices in the business of insurance in accordance with the intent of Congress as expressed in the act of Congress of March 9, 1945, 59 Stat. 33, by defining, or providing for the determination of, all such practices in this state which constitute unfair methods of competition or unfair or deceptive acts or practices and by prohibiting the trade practices so defined or determined.
Arkansas	Ark. Code Ann. § 23-66-202(a)	The purpose of this subchapter is to regulate trade practices in the business of insurance in accordance with the intent of Congress as expressed in Public Law 79-15 by defining, or providing for the determination of, all practices in this state which constitute unfair methods of competition or unfair or deceptive

STATE	STATUTE	TEXT
		acts or practices and by prohibiting the trade practices so defined or determined.
California	Cal. Ins. Code § 790	The purpose of this article is to regulate trade practices in the business of insurance in accordance with the intent of Congress as expressed in the Act of Congress of March 9, 1945 (Public Law 15, Seventy-ninth Congress), by defining, or providing for the determination of, all such practices in this State which constitute unfair methods of competition or unfair or deceptive acts or practices and by prohibiting the trade practices so defined or determined.
Colorado	Colo. Rev. Stat. Ann. § 10-3-1101	The purpose of this part 11 is to regulate trade practices in the business of insurance by defining, or providing for

STATE	STATUTE	TEXT
		the determination of, all such practices in this state which constitute unfair methods of competition or unfair or deceptive acts or practices, and by prohibiting the trade practices so defined or determined. No rules or regulations shall be promulgated to adversely affect free and open competition in the sale of insurance.
Connecticut	*Mead v. Burns*, 199 Conn. 651, 509 A.2d 11 (1986)	. . . Congress enacted the McCarran-Ferguson Act, 15 U.S.C. § 1012 (b), which authorized federal regulation of insurance only "to the extent that such business is not regulated by State Law." In response, the National Association of Insurance Commissioners in 1947

STATE	STATUTE	TEXT
		promulgated a model insurance trade practices act to assure continued state supervision of the insurance industry. That model act was the basis for this state's enactment of CUIPA in 1955, and the legislative history at that time demonstrates that the legislature intended to preserve state regulation of insurance practices.
Delaware	Del. Code Ann. tit. 18 § 2301(a)	The purpose of this chapter is to regulate trade practices in the business of insurance in accordance with the intent of Congress as expressed in the Act of Congress of March 9, 1945, 15 U.S.C. § 1011 et seq., by defining or providing for the determination of all such practices in this State which constitute unfair methods of competition or unfair or deceptive acts or practices and by prohibiting the trade practices so defined or determined.

STATE	STATUTE	TEXT
Florida	Fla. Stat. Ann. § 626.951(1)	The purpose of this part is to regulate trade practices relating to the business of insurance in accordance with the intent of Congress as expressed in the Act of Congress of March 9, 1945 (Pub. L. No. 15, 79th Congress), by defining, or providing for the determination of, all such practices in this state which constitute unfair methods of competition or unfair or deceptive acts or practices and by prohibiting the trade practices so defined or determined.
Georgia	Ga. Code Ann. § 33-6-1	The purpose of this article is to regulate trade practices in the business of insurance in accordance with the intent of Congress as expressed in the act of Congress of March 9, 1945 (Public Law 15, 79th Congress), by defining or providing for the determination of all practices in this state which constitute

STATE	STATUTE	TEXT
		unfair methods of competition or unfair or deceptive acts or practices and by prohibiting the trade practices so defined or determined.
Hawaii	Haw. Rev. Stat. Ann. § 431:13-101	The purpose of this article is to regulate trade practice in the business of insurance in accordance with the intent of the Congress of the United States as expressed in the act of Congress of March 9, 1945 (Public Law 15, 79th Congress), by defining, or providing for the determination of, all acts, methods, and practices which constitute unfair methods of competition or unfair or deceptive acts or practices in the State, and by prohibiting the trade practices so defined or determined.

STATE	STATUTE	TEXT
Idaho	Idaho Code § 41-1301	The purpose of sections 41-1301 through 41-1322 is to regulate trade practices in the business of insurance in accordance with the intent of congress as expressed in the act of congress of March 9, 1945 (Public Law 15, 79th Congress [ch. 20, 59 U.S. Stat. at Large 33]), by defining, or proving for the determination of, all such practices in this state which constitute unfair methods of competition or unfair or deceptive acts or practices and by prohibiting the trade practices so defined or determined.
Illinois	215 Ill. Comp. Stat. Ann. 5/421	Declaration of purpose. The purpose of this Article is to regulate trade practices in the business of insurance in accordance with the intent of Congress as expressed in the Act of Congress of March 9, 1945 (Public Law 15, 79th

STATE	STATUTE	TEXT
		Congress), by defining, or providing for the determination of, all such practices in this State which constitute unfair methods of competition or unfair or deceptive acts or practices and by prohibiting the trade practices so defined or determined.
Indiana	Ind. Code Ann. § 27-4-1-1	Sec. 1. The purpose of this chapter is to regulate the trade practices in the business of insurance, in accordance with the intent of Congress as expressed in 15 U.S.C. 1011 et seq., by defining, or providing for the determination of, all such practices which constitute in this state unfair methods of competition and unfair or deceptive acts or practices and by prohibiting the trade practices so defined or determined.

STATE	STATUTE	TEXT
Iowa	Iowa Code Ann. § 507B.1	The purpose of this chapter is to regulate trade practices in the business of insurance in accordance with the intent of Congress as expressed in the Act of Congress of March 9, 1945, Public Law 15, 79th Congress, by defining, or providing for the determination of, all such practices in this state which constitute unfair methods of competition or unfair or deceptive acts or practices and by prohibiting the trade practices so defined or determined.
Kansas	Kan. Stat. Ann. § 40-2401	The purpose of this act is to regulate trade practices in the business of insurance in accordance with the intent of congress as expressed in the act of congress of March 9, 1945 (Public Law 15, 79th Congress), by defining, or providing for the determination of, all such

STATE	STATUTE	TEXT
		practices in this state which constitute unfair methods of competition or unfair or deceptive acts or practices and by prohibiting the trade practices so defined or determined.
Louisiana	La. Rev. Stat. Ann. § 22:1211	The purpose of this Part is to regulate the trade practices in the business of insurance, in accordance with the intent of congress as expressed in Public Law 15- 79th Congress, by defining or providing for the determination of all acts, methods, and practices which constitute unfair methods of competition and unfair or deceptive acts and practices in this state, and to prohibit the same.
Maine	Me. Rev. Stat. Ann. tit. 24-A § 2151	The purpose of this chapter is to regulate trade practices in the business of insurance in accordance with the intent

STATE	STATUTE	TEXT
		of Congress as expressed in the Act of Congress of March 9, 1945, Public Law 15, 79th Congress, by defining or providing for the determination of all such practices in this State which constitute unfair methods of competition or unfair or deceptive acts or practices, by defining or providing for the determination of all such practices in other states by residents of this State which constitute unfair methods of competition or unfair or deceptive acts or practices, and by prohibiting the trade practices so defined or determined.
Maryland	Md. Code Ann., Ins. § 27-101	The purpose of this title is to regulate trade practices in the business of insurance in accordance with the intent of Congress expressed in the McCarran-Ferguson Act, 15 U.S.C. §§ 1011

STATE	STATUTE	TEXT
		through 1015, by defining, or providing for the determination of, all trade practices in the business of insurance in the State that are unfair methods of competition or unfair or deceptive acts or practices and by prohibiting those trade practices.
Michigan	Mich. Comp. Laws Ann. § 500.2002	The purpose of this uniform trade practices act is to regulate trade practices in the business of insurance in accordance with the intent of congress as expressed in the act of congress of March 9, 1945 (Public Law 15, 79th Congress as amended), by defining, or by providing for the determination of (under standards or procedures herein prescribed), all such practices in this state which constitute unfair methods of competition or unfair or deceptive acts or practices, and by prohibiting the trade practices so defined or determined.

STATE	STATUTE	TEXT
Minnesota	Minn. Stat. Ann. § 72A.17	The purpose of sections 72A.17 to 72A.32 is to regulate trade practices in the business of insurance in accordance with the intent of congress as expressed in the Act of Congress of March 9, 1945 (Public Law Number 15, 79th Congress), by defining, or providing for the determination of, all such practices in this state which constitute unfair methods of competition or unfair or deceptive acts or practices and by prohibiting the trade practices so defined or determined.
Mississippi	Miss. Code Ann. § 83-5-29	The purpose of Sections 83-5-29 to 83-5-51 is to regulate trade practices in the business of insurance in accordance with the intent of congress as expressed in the Act of Congress of March 9, 1945 (Public Law 15, 79th Congress), by

STATE	STATUTE	TEXT
		defining, or providing for the determination of, all such practices in this state which constitute unfair methods of competition or deceptive practices, and by prohibiting the trade practices so defined or determined.
Missouri	Mo. Ann. Stat. § 375.930.2.	The purpose of sections 375.930 to 375.948 is to regulate trade practices in the business of insurance in accordance with the Act of Congress of March 9, 1945 (Public Law 15, 79th Congress), by defining, or providing for the determination of, all such practices in this state which constitute unfair methods of competition or unfair or deceptive acts or practices and by prohibiting the trade practices so defined or determined. Nothing in sections 375.930 to 375.948 shall be construed to create or

STATE	STATUTE	TEXT
		imply a private cause of action for a violation of sections 375.930 to 375.948.
Montana	Mont. Code Ann. § 33-18-101	The purpose of this chapter is to regulate trade practices in the business of insurance in accordance with the intent of congress as expressed in Public Law 79-15 (the McCarran-Ferguson Act, 15 U.S.C. 1011 through 1015), which was approved March 9, 1945, by defining or providing for determination of all such practices in this state which constitute unfair methods of competition or unfair or deceptive acts or practices and by prohibiting the trade practices so defined or determined.
Nebraska	Neb. Rev. Stat. § 44-1522	The purpose of the Unfair Insurance Trade Practices Act is to regulate un-

STATE	STATUTE	TEXT
		fair trade practices in the business of insurance, in accordance with the intent of the Congress of the United States as expressed in Public Law 79-15, by defining, or providing for the determination of, all acts and practices in this state which constitute unfair trade practices and by prohibiting the acts and practices so defined or determined.
Nevada	Nev. Rev. Stat. § 686A.010	The purpose of NRS 686A.010 to 686A.310, inclusive, is to regulate trade practices in the business of insurance in accordance with the intent of Congress as expressed in the Act of Congress approved March 9, 1945, being c. 20, 59 Stat. 33, also designated as 15 U.S.C. §§ 1011 to 1015, inclusive, by defining, or providing for the determination of, all such practices in this state

STATE	STATUTE	TEXT
		which constitute unfair methods of competition or unfair or deceptive acts or practices and by prohibiting the trade practices so defined or determined.
New Hampshire	N.H. Rev. Stat. Ann. § 417:1	The purpose of this chapter is to regulate trade practices in the business of insurance, in accordance with the intent of Congress as expressed in the Act of Congress of March 9, 1945 (Public Law 15, 79th Congress), by defining or providing for the determination of all such practices which constitute in this state unfair methods of competition or unfair or deceptive acts or practices and by prohibiting the trade practices so defined or determined.
New Jersey	N.J. Stat. Ann. § 17:29B-1	The purpose of this act is to regulate trade practices in the business of insur-

STATE	STATUTE	TEXT
		ance in accordance with the intent of Congress as expressed in the Act of Congress of March 9, 1945 (Public Law 15, 79th Congress), by defining, or providing for the determination of, all such practices in this State which constitute unfair methods of competition or unfair or deceptive acts or practices and by prohibiting the trade practices so defined or determined.
New Mexico	N.M. Stat. Ann. § 59A-16-2	A purpose of this article is to regulate trade practices in the insurance business and related businesses in accordance in part with the intent of Congress as expressed in the Act of Congress approved March 9, 1945, being c. 20, 59 Stat. 33, also designated as 15 U.S.C. Secs. 1011 to 1015, inclusive, by defining, or providing for determination of, practices

STATE	STATUTE	TEXT
		in this state which constitute unfair methods of competition or unfair or deceptive acts or practices so defined or determined.
New York	N.Y. Ins. Law § 2401	The purpose of this article is to regulate trade practices in the business of insurance in accordance with the intent of congress as expressed in Public Law 15, 79th Congress, by defining, or providing for the determination of, all such practices in this state which constitute unfair methods of competition or unfair or deceptive acts or practices and by prohibiting the trade practices so defined or determined.

STATE	STATUTE	TEXT
North Carolina	N.C. Gen. Stat. § 58-63-1	The purpose of this Article is to regulate trade practices in the business of insurance in accordance with the intent of Congress as expressed in the Act of Congress of March 9, 1945 (Public Law 15, 79th Congress), by defining, or providing for the determination of, all such practices in this State which constitute unfair methods of competition or unfair or deceptive acts [or] practices and by prohibiting the trade practices so defined or determined.
Oklahoma	Okla. Stat. Ann. tit. 36 § 1201	The purpose of this article is to regulate trade practices in the business of insurance in accordance with the intent of Congress as expressed in the Act of Congress of March 9, 1945 (Public Law 15, 79th Congress), by defining, or providing for the determination of, all such

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		practices in this state which constitute unfair methods of competition or unfair or deceptive acts or practices and by prohibiting the trade practices so defined or determined.
Oregon	Or. Rev. Stat. § 731.012	The Insurance Code shall regulate the business of insurance and every person engaged therein in accordance with the intent of Congress as expressed in the Act of March 9, 1945, as amended (Public Law 15, 79th Congress, 15 U.S.C. 1011 to 1014) which states in part that no Act of Congress shall be construed to invalidate, impair or supersede any law enacted by any state for the purpose of regulating the business of insurance, or which imposes a fee or tax upon such business, unless such Act specifically relates to the business of insurance.

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Pennsylvania	Pa. Stat. Ann. tit. 40 § 1171.2	The purpose of this act is to regulate trade practices in the business of insurance in accordance with the intent of congress as expressed in the act of Congress of March 9, 1945 (Public Law 15, 79th Congress), by defining or providing for the determination of all such practices in this state which constitute unfair methods of competition or unfair or deceptive acts or practices and by prohibiting the trade practices so defined or determined.
Rhode Island	R.I. Gen. Laws § 27-29-1	The purpose of this chapter is to regulate trade practices in the business of insurance in accordance with the intent of congress as expressed in 15 U.S.C. § 1101 et seq., by defining, or providing for the determination of, all such practices in this state which constitute

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		unfair methods of competition or unfair or deceptive acts or practices, and by prohibiting the trade practices so defined or determined. Nothing herein shall be construed to create or imply a private cause of action for a violation of this chapter.
South Carolina	S.C. Code Ann. § 38-57-10	The purpose of this chapter is to regulate trade practices in the business of insurance in accordance with the intent of Congress as expressed in the act of Congress of March 9, 1945, (Public Law 15, 79th Congress), by defining, or providing for the determination of, all the practices in this State which constitute unfair methods of competition or unfair or deceptive acts or practices and by prohibiting the trade practices so defined or determined.

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South Dakota	S.D. Codified Laws § 58-33-1	The purpose of this chapter is to regulate trade practices in the business of insurance in accordance with the intent of Congress as expressed in the Act of Congress of March 9, 1945 (Public Law 15, 79th Congress, ch. 20, 50 U.S. Stat. at Large 33), by defining, or providing for determination of, all such practices in this state which constitute unfair methods of competition or unfair or deceptive acts or practices and by prohibiting the trade practices so defined or determined.
Tennessee	Tenn. Code Ann. § 56-8-101	The purpose of this chapter is to regulate trade practices in the business of insurance in accordance with the intent of congress as expressed in the Act of Congress of March 9, 1945 (Public Law 15, 79th Congress), by defining, or pro-

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		viding for the determination of, all such practices in this state which constitute unfair methods of competition or unfair or deceptive acts or practices and by prohibiting the trade practices so defined or determined.
Vermont	Vt. Stat. Ann. tit. 8 § 4721	The purpose of sections 4721-4733 of this title is to regulate trade practices in the business of insurance in accordance with the intent of Congress as expressed in the Act of Congress of March 9, 1945 (Public Law 15, 79th Congress), by defining, or providing for the determination of practices in this state which constitute unfair methods of competition or unfair or deceptive acts or practices and by prohibiting the trade practices so defined or determined.

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Virginia	Va. Code Ann. § 38.2-500	The purpose of this chapter is to regulate trade practices in the business of insurance in accordance with the intent of Congress as expressed in the McCarran-Ferguson Act, 15 U.S.C. §§ 1011 through 1015, by defining and prohibiting all practices in this Commonwealth that constitute unfair methods of competition or unfair or deceptive acts or practices.
West Virginia	W. Va. Code § 33-11-1	The purpose of this article is to regulate trade practices in the business of insurance in accordance with the intent of Congress as expressed in the act of Congress of March ninth, one thousand nine hundred forty-five (Public Law fifteen, seventy-ninth Congress), by defining, or providing for the determination of, all such practices in this State

STATE	STATUTE	TEXT
		which constitute unfair methods of competition or unfair or deceptive acts or practices and by prohibiting the trade practices so defined or determined.

STATE	STATUTE	TEXT
Alaska	Alaska Stat. § 21.36.030(a)	A person may not make, issue, circulate, . . . or have made, issued, circulated, . . . [a] statement that (1) misrepresents the . . . conditions . . . or terms of an insurance policy; . . . (6) uses a name or title of an insurance policy or class of insurance policies misrepresenting its true nature; . . . (11) is in any other way misleading, false, or deceptive.
	Alaska Stat. § 21.36.040	A person may not make, publish, disseminate, circulate, or place before the

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		public, or cause, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, . . . or in any other way, . . . [a] statement with respect to the business of insurance or with respect to a person in the conduct of the person's insurance business, that is untrue, deceptive, or misleading.
Arizona	Ariz. Rev. Stat. Ann. § 20-443	No person shall make, issue or circulate, or cause to be made, issued or circulated any . . . statement: 1. Misrepresenting the terms of any policy. . . .

STATE	STATUTE	TEXT
		4. Using any name or title of any policy or class of policies misrepresenting the true nature of such policy.
	Ariz. Rev. Stat. Ann. § 20-444 A	No person shall make, publish, disseminate, circulate or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated or placed before the public . . . or in any other way, any . . . statement containing any . . . representation or statement with respect to the business of insurance or with respect to any person in the conduct of his insurance business, which is untrue, deceptive or misleading.

STATE	STATUTE	TEXT
Arkansas	Ark. Code Ann. § 23-66-206	The following are defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance: (1) . . . making, issuing, circulating, or causing to be made, issued, or circulated, any . . . statement . . . which: (A) Misrepresents the . . . conditions or terms of any insurance policy; or . . .

STATE	STATUTE	TEXT
		(E) Uses any name or title of any insurance policy or class of insurance policies, misrepresenting the true nature thereof; . . .
California	Cal. Ins. Code § 790.03	The following are hereby defined as unfair methods of competition and unfair and deceptive acts or practices in the business of insurance: (a) Making, issuing, circulating, or causing to be made, issued or circulated, any . . . statement misrepresenting the terms of any policy . . .

STATE	STATUTE	TEXT
		(b) Making or disseminating or causing to be made or disseminated before the public in this state, . . . or in any other manner . . . any statement containing any . . . representation or statement with respect to the business of insurance or with respect to any person in the conduct of his or her insurance business, which is untrue, deceptive, or misleading, ...
Colorado	Colo. Rev. Stat. Ann. § 10-3-1104	(1) The following are defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

STATE	STATUTE	TEXT
		(a) . . . Making, issuing, circulating, or causing to be made, issued, or circulated, any . . . statement . . . which: (I) Misrepresents the . . . conditions, or terms of any insurance policy; . . . (V) Uses any name or title of any insurance policy or class of insurance policies misrepresenting the true nature thereof; . . .

STATE	STATUTE	TEXT
		(b) . . . Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, . . . or in any other way, . . . [a] statement containing any . . . representation, or statement with respect to the business of insurance, or with respect to any person in the conduct of his insurance business, which is untrue, deceptive, or misleading; . . . .

STATE	STATUTE	TEXT
Connecticut	Conn. Gen. Stat. Ann. § 38a-816	The following are defined as unfair methods of competition and unfair and deceptive acts or practices in the business of insurance: (1) . . . Making, issuing or circulating, or causing to be made, issued or circulated, any . . . statement . . . which: (a) Misrepresents the . . . terms of any insurance policy . . . (e) uses any name or title of any insurance policy or class of insurance policies misrepresenting the true nature thereof . . . (2) . . . Making, publishing, disseminating, circulating or placing before the public, or causing, directly or indirectly, to be

STATE	STATUTE	TEXT
		made, published, disseminated, circulated or placed before the public . . . or in any other way . . . or statement containing any . . . representation or statement with respect to the business of insurance or with respect to any person in the conduct of his insurance business, which is untrue, deceptive or misleading.
Delaware	Del. Code Ann. tit. 18 § 2304	The following are hereby defined as . . . unfair or deceptive acts or practices in the business of insurance:

STATE	STATUTE	TEXT
		(1) . . . No person shall make, issue, circulate or cause to be made, issued or circulated any . . . statement . . . which: (a) Misrepresents the . . . conditions or terms of any insurance policy; or . . . (e) Uses any name or title of any insurance policy or class of insurance policies misrepresenting the true nature thereof; . . . (2) . . . No person shall make, publish, disseminate, circulate or

STATE	STATUTE	TEXT
		place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated or placed before the public, . . . or in any other way, . . . statement containing any . . . representation or statement with respect to the business of insurance or with respect to any person in the conduct of the insurance business, which is untrue, deceptive or misleading.
Florida	Fla. Stat. Ann. § 626.9541(1)	. . . The following are defined as . . . unfair or deceptive acts or practices:

STATE	STATUTE	TEXT
		(a) . . . making, issuing, circulating, or causing to be made, issued, or circulated, any . . . statement, . . . which: 1. Misrepresents the . . . conditions, or terms of any insurance policy. . . . 5. Uses any name or title of any insurance policy or class of insurance policies misrepresenting the true nature thereof. . . . (b) . . . Knowingly making, publishing, disseminating, circulating, or placing before the public, or

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		causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public: . . . 4. In any other way, . . . [a] statement containing any . . . representation, or statement with respect to the business of insurance, which is untrue, deceptive, or misleading.
Georgia	Ga. Code Ann. § 33-6-4(b)	The following acts or practices are deemed unfair methods of competition and unfair and deceptive acts or practices in the business of insurance:

STATE	STATUTE	TEXT
		(1) Making, publishing, disseminating, circulating, or placing before the public or causing directly or indirectly to be made, published, disseminated, circulated, or placed before the public . . . or in any other way . . . [a] statement containing any . . . representation, or statement with respect to the business of insurance or with respect to any person in the conduct of his insurance business, which statement, assertion, or representation is untrue, deceptive, or misleading;
Hawaii	Haw. Rev. Stat. § 431:13-103(a)	The following are defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

STATE	STATUTE	TEXT
		(1) . . . Making, issuing, circulating, or causing to be made, issued, or circulated, any estimate, illustration, circular, statement, sales presentation, omission, or comparison which: (A) Misrepresents the . . . terms of any insurance policy; . . . (E) Uses any name or title of any insurance policy or class of insurance policies misrepresenting the true nature thereof; . . .

STATE	STATUTE	TEXT
		(2) . . . Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public . . . or in any other way . . . [a] statement containing any . . . representation or statement with respect to the business of insurance or with respect to any person in the conduct of the person's insurance business, which is untrue, deceptive or misleading.

STATE	STATUTE	TEXT
Idaho	Idaho Code § 41-1303(1)	No person shall make, issue, circulate, or cause to be made, issued or circulated, any . . . statement misrepresenting the terms of any policy . . . or use any name or title of any policy or class of policies misrepresenting the true nature thereof.
	Idaho Code § 41-1304	No person shall make, publish, disseminate, circulate, or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, . . . or in any other way, any . . . statement containing any . . . representation or

STATE	STATUTE	TEXT
		statement with respect to the business of insurance or with respect to any person in the conduct of his insurance business, which is untrue, deceptive or misleading.
Illinois	215 Ill. Comp. Stat. Ann. 5/149(1)	No company doing business in this State . . . or any other person, shall make, issue or circulate or cause or knowingly permit to be made, issued or circulated any estimate, illustration, circular, or verbal or written statement of any sort misrepresenting the terms of any policy issued or to be issued . . . or shall by the use of any name or title of any policy or class of policies misrepresent the nature thereof.

STATE	STATUTE	TEXT
Indiana	Ind. Code Ann. § 27-4-1-4	The following are hereby defined as unfair methods of competition and unfair and deceptive acts and practices in the business of insurance: (1) Making, issuing, circulating, or causing to be made, issued, or circulated, any . . . statement: (A) misrepresenting the terms of any policy . . . (D) using any name or title of any policy or class of policies misrepresenting the true nature thereof; . . .

STATE	STATUTE	TEXT
		(2) Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, . . . or in any other way . . . [a] statement containing any assertion, representation, or statement with respect to any person in the conduct of his insurance business, which is untrue, deceptive, or misleading.
Iowa	Iowa Code Ann. § 507B.4	The following are hereby defined as . . . unfair or deceptive acts or practices in the business of insurance:

STATE	STATUTE	TEXT
		1. . . . Making, issuing, circulating, or causing to be made, issued or circulated, any . . . statement . . . which . . . : a. Misrepresents the . . . conditions, or terms of any insurance policy. . . . e. Uses any name or title of any insurance policy or class of insurance policies misrepresenting the true nature thereof. . . .

STATE	STATUTE	TEXT
		2. . . . Making, publishing, disseminating, circulating or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public . . . or in any other way, . . . [a] statement containing any assertion, representation, or statement with respect to the business of insurance or with respect to any person in the conduct of the person's insurance business, which is untrue, deceptive or misleading.

STATE	STATUTE	TEXT
Kansas	Kan. Stat. Ann. § 40-2404	The following are hereby defined as . . . unfair or deceptive acts or practices in the business of insurance: (1) . . . Making, issuing, circulating or causing to be made, issued or circulated any . . . statement . . . which: (a) Misrepresents the . . . conditions or terms of any insurance policy; . . . (e) uses any name or title of any insurance policy or class of insurance policies misrepresenting the true nature thereof; . . .

STATE	STATUTE	TEXT
		(2) . . . Making, publishing, disseminating, circulating or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated or placed before the public, . . . or in any other way . . . [a] statement containing any assertion, misrepresentation or statement with respect to the business of insurance or with respect to any person in the conduct of such person's insurance business, which is untrue, deceptive or misleading.
Kentucky	Ky. Rev. Stat. Ann. § 304.12-020	No person shall make or disseminate orally or in other manner any . . . statement, . . . :

STATE	STATUTE	TEXT
		(1) Misrepresenting the terms of any policy . . .
		(2) Using any name or title of any policy or class of policies misrepresenting the true nature thereof.
Louisiana	La. Rev. Stat. Ann. § 22:1214	The following are declared to be . . . unfair or deceptive acts or practices in the business of insurance:
		(1) . . . Making, issuing, circulating, or causing to be made, issued, or circulated any . . . statement . . . that . . . :

STATE	STATUTE	TEXT
		(a) Misrepresents the . . . conditions, or terms of any policy . . .
		. . .
		(f) Uses any name or title of any policy or class of policies misrepresenting the true nature thereof.
		. . .
		(2) . . . Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, . . . or in any other way

STATE	STATUTE	TEXT
		. . . [a] statement containing any assertion, representation or statement with respect to the business of insurance or with respect to any person in the conduct of his insurance business, which is untrue, deceptive or misleading.
Maine	Me. Rev. Stat. Ann. tit. 24-A § 2153	No person shall make, issue, circulate, or cause to be made, issued or circulated, any . . . statement misrepresenting the terms of any policy . . . or use any name or title on any policy or class of policies misrepresenting the true nature thereof.

STATE	STATUTE	TEXT
	Me. Rev. Stat. Ann.tit. 24-A § 2154	No person shall make, publish, disseminate, circulate, or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, . . . or in any other way, . . . [a] statement containing any . . . representation or statement with respect to the business of insurance or with respect to any person in the conduct of his insurance business, which is untrue, deceptive or misleading.
Maryland	Md. Code Ann., Ins. § 27-202(1)	A person may not: (1) make, issue, circulate, or cause to be made, issued or circulated

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		an estimate, circular, or statement that misrepresents the terms of a policy issued or to be issued, ...
	Md. Code Ann., Ins. § 27-202(4)	A person may not:
		(4) use a name or title of a policy or class of policies that misrepresents the true nature of the policy or class of policies.
Massachusetts	Mass. Gen. Laws Ann. ch. 176D § 3	The following are hereby defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance: —

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		(1) . . . making, issuing, circulating, or causing to be made, issued or circulated, any . . . statement which: —
		(a) Misrepresents the . . . terms of any insurance policy;
		. . .
		(e) Uses any name or title of any insurance policy or class of insurance policies misrepresenting the true nature thereof;
		. . .

STATE	STATUTE	TEXT
		(2) . . . making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public . . . or in any other way . . . [a] statement containing any . . . representation or statement with respect to the business of insurance or with respect to any person in the conduct of his insurance business, which is untrue, deceptive or misleading.
Michigan	Mich. Comp. Laws Ann. § 500.2005	An unfair method of competition and an unfair or deceptive act or practice in the business of insurance means the

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		making, issuing, circulating, or causing to be made, issued, or circulated . . . [a] statement . . . [that] does any of the following: (a) Misrepresents the terms . . . of an insurance policy. . . . (e) Uses a name or title of an insurance policy or class of insurance policies misrepresenting the true nature of that insurance policy or class of insurance policies. . . .
	Mich. Comp. Laws Ann. § 500.2007	The following are defined as unfair methods of competition and unfair and

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		deceptive acts or practices in the business of insurance:
		Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public . . . [a] statement containing any . . . representation or statement with respect to the business of insurance or with respect to any person in the conduct of his insurance business, which is untrue, deceptive or misleading.

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Minnesota	Minn. Stat. Ann. § 72A.20 Subd.1.	. . . Making, issuing, circulating, or causing to be made, issued or circulated, any . . . statement misrepresenting the terms of any policy . . . or using any name or title of any policy or class of policies misrepresenting the true nature thereof, . . .
	Subd. 2.	. . . Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, . . . or in any other way, . . . [a] statement, containing any assertion, representation, or statement with respect to the business of insurance, or

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		with respect to any person in the conduct of the person's insurance business, which is untrue, deceptive, or misleading, . . .
Mississippi	Miss. Code Ann. § 83-5-35	The following are hereby defined as unfair methods of competition and unfair and deceptive acts or practices in the business of insurance. (a) . . . Making, issuing, circulating, or causing to be made, issued, or circulated, any . . . statement misrepresenting the terms of any policy . . . or using any name or title of any policy or class of policies misrepresenting the true nature thereof; . . .

STATE	STATUTE	TEXT
		(b) . . . Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public . . . or in any other way . . . [a] statement with respect to the business of insurance, or with respect to any person in the conduct of his insurance business, which is untrue, deceptive, or misleading.
Missouri	Mo. Ann. Stat. § 375.936	Any of the following practices, . . . are hereby defined as unfair trade practices in the business of insurance:

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		(4) . . . making, publishing, disseminating, circulating or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, . . . or in any other way . . . [a] statement containing any assertion, representation or statement with respect to the business of insurance or with respect to any insurer in the conduct of his insurance business, which is untrue, deceptive or misleading; . . .

STATE	STATUTE	TEXT
		(6) . . . making, issuing, circulating, or causing to be made, issued or circulated, any . . . statement, . . . which: (a) Misrepresents the benefits, . . . conditions, or terms of any policy; . . . (e) Uses any name or title of any policy or class of policies misrepresenting the true nature thereof; . . .
	Mo. Ann. Stat. § 376.590	1. No . . . insurance company doing business in this state, . . .

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		shall issue or circulate, or cause or permit to be issued or circulated any . . . statement . . . misrepresenting the terms of any policy issued . . . or shall use any name or title of any policy or class of policies misrepresenting the true nature thereof.
Montana	Mont. Code Ann. § 33-18-202	No person shall make, issue, circulate, or cause to be made, issued, or circulated any . . . statement which: (1) misrepresents the . . . conditions, or terms of any insurance policy; . . .

STATE	STATUTE	TEXT
		(5) uses any name or title of any insurance policy or class of insurance policies misrepresenting the true nature thereof. . . .
	Mont. Code Ann. § 33-18-203	No person shall make, publish, disseminate, circulate, or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, . . . or in any other way, . . . [a] statement containing any . . . representation, or statement with respect to the business of insurance or with respect to any person in the conduct of his insurance business, which is untrue, deceptive, or misleading.

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Nebraska	Neb. Rev. Stat. § 44-1525	Any of the following acts or practices, . . . shall be unfair trade practices in the business of insurance: (1) Making, issuing, circulating, or causing to be made, issued, or circulated any . . . statement . . . which: (a) Misrepresents the . . . conditions, or terms of any policy; . . . (e) Uses any name or title of any policy or class of policies which misrepresents the true nature thereof; . . .

STATE	STATUTE	TEXT
		(2) Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, . . . or in any other way, . . . [a] statement containing any assertion, representation, or statement with respect to the business of insurance or with respect to any insurer in the conduct of his or her insurance business which is untrue, deceptive, or misleading . . .
Nevada	Nev. Rev. Stat. § 686A.030	A person shall not make, issue, circulate, or cause to be made, issued, or circulated any . . . statement, . . . which:

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		1. Misrepresents the . . . conditions or terms of any insurance policy; . . . 5. Uses any name or title of any policy or class of insurance policies misrepresenting the true nature thereof; . . .
	Nev. Rev. Stat. § 686A.040	No person shall make, publish, disseminate, circulate, or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, . . . or in any other way, any . . . statement containing any . . . representation or

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		statement with respect to the business of insurance or with respect to any person in the conduct of his insurance business, which is untrue, deceptive, or misleading.
New Hampshire	N.H. Rev. Stat. Ann. § 417:4	The following are hereby defined as . . . unfair and deceptive acts and practices in the business of insurance: I.(a) Making, issuing, circulating, or causing to be made, issued or circulated any . . . statement misrepresenting the terms of any policy . . . . . .

STATE	STATUTE	TEXT
		(e) Using any name or title of any policy or class of policies misrepresenting the true nature thereof; . . . III.(a) Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, . . . or in any other way, . . . [a] statement containing any . . . representation, or statement with respect to any insurer, . . . in the conduct of such person's insurance business, which is untrue, incomplete, deceptive or misleading.

STATE	STATUTE	TEXT
New Jersey	N.J. Stat. Ann. § 17:29B-4	The following are hereby defined as . . . unfair and deceptive acts or practices in the business of insurance: (1) . . . Making, issuing, circulating, or causing to be made, issued or circulated, any . . . statement misrepresenting the terms of any policy . . . or using any name or title of any policy or class of policies misrepresenting the true nature thereof, . . . (2) . . . Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the

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		public, . . . or in any other way, . . . [a] statement with respect to the business of insurance or with respect to any person in the conduct of his insurance business, which is untrue, deceptive or misleading.
New Mexico	N.M. Stat. Ann. § 59A-16-4	No person shall make, publish, issue or circulate any . . . statement . . . which: A. misrepresents the . . . conditions or terms of any policy; . . . E. uses any name or title of any policy or class of policies misrepresenting the true nature thereof; . . .

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	N.M. Stat. Ann. § 59A-16-5	No person shall make, publish, disseminate, circulate, or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, . . . or in any other way, any . . . statement containing any . . . representation or statement with respect to any business subject to the superintendent's supervision under the Insurance Code . . . or with respect to any person in the conduct of such business, which is untrue, deceptive or misleading.
North Carolina	N.C. Gen. Stat. § 58-63-15	The following are hereby defined as . . . unfair and deceptive acts or practices in the business of insurance: (1) . . . Making, issuing, circulating, or causing to be made, issued or

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		circulated, any . . . statement misrepresenting the terms of any policy . . . or using any name or title of any policy or class of policies misrepresenting the true nature thereof, . . .
		(2) . . . Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, . . . or in any other way, . . . [a] statement containing any assertion, representation or statement with respect to the business of insurance or with respect to any person in the conduct of his insurance business, which is untrue, deceptive or misleading.

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North Dakota	N.D. Cent. Code § 26.1-04-03	The following are . . . unfair and deceptive acts or practices in the business of insurance:
		1. . . . Making, issuing, circulating, or causing to be made, issued, or circulated, any . . . statement . . . misrepresenting the terms of any policy . . .
		2. . . . Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, . . . or in any other way, . . . [a] statement containing any assertion, representation, or

STATE	STATUTE	TEXT
		statement with respect to the business of insurance or with respect to any person in the conduct of that person's insurance business, which is untrue, deceptive, or misleading.
	N.D. Cent. Code § 26.1-04-07	An insurance . . . company, . . . may not issue, circulate, or use, or cause or permit to be issued, circulated, or used, any . . . statement . . . misrepresenting the terms of any policy . . . or use any name or title of any policy or class of policies misrepresenting the true nature thereof.
Ohio	Ohio Rev. Code Ann. § 3901.21	The following are hereby defined as unfair and deceptive acts or practices in the business of insurance:

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		(A) Making, issuing, circulating, or causing or permitting to be made, issued, or circulated, . . . any . . . statement misrepresenting the terms of any policy . . . or using any name or title of any policy or class of policies misrepresenting the true nature thereof, . . .
		(B) Making, publishing, disseminating, circulating, or placing before the public or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, . . . or in any other way, . . . statement containing any . . . representation, or statement, with respect to the business of

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		insurance or with respect to any person in the conduct of the person's insurance business, which is untrue, deceptive, or misleading.
Oklahoma	Okla. Stat. Ann. tit. 36 §1204	The following are hereby defined as . . . unfair and deceptive acts or practices in the business of insurance: 1. . . . Making, issuing, circulating, or causing to be made, issued or circulated, any . . . statement . . . misrepresenting the terms of any policy. . . 2. . . . Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be

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		made, published, disseminated, circulated, or placed before the public, . . . or in any other way . . . [a] statement containing any . . . representation or statement with respect to the business of insurance or with respect to any person in the conduct of his insurance business which is untrue, deceptive or misleading.
Oregon	Or. Rev. Stat. § 746.075	(1) Make, issue, circulate or cause to be made, issued or circulated, any . . . statement misrepresenting the terms of any policy issued or to be issued . . . . . . (4) Use any name or title of any policy or class of policies misrepresenting the true nature thereof;

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	Or. Rev. Stat. § 746.110	No person shall make, publish, disseminate, circulate, or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public . . . or in any other way . . . [a] statement containing any . . . representation or statement with respect to the business of insurance or with respect to any person in the conduct of the insurance business, which is untrue, deceptive or misleading.
Pennsylvania	Penn. Stat. Ann. tit. 40 § 1171.5	(a) . . . "unfair or deceptive acts or practices" in the business of insurance means: (1) Making, publishing, issuing or circulating any . . . statement . . . which:

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		(i) Misrepresents the . . . conditions or terms of any insurance policy; . . . (v) Uses any name or title of any insurance policy or class of insurance policies misrepresenting the true nature thereof; (2) Making, issuing, publishing or circulating in any manner . . . [a] statement containing any representation or statement with respect to the business of insurance or with respect to any person in the conduct of his insurance business which is untrue, deceptive or misleading.

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Rhode Island	R.I. Gen. Laws § 27-29-4	The following are hereby defined as . . . unfair and deceptive acts or practices in the business of insurance: (1) . . . Making, issuing, circulating, or causing or permitting to be made, issued, or circulated any . . . statement . . . misrepresenting the terms of any policy . . . or using any name or title of any policy or class of policies misrepresenting the true nature thereof, . . . (2) . . . Making, publishing, disseminating, circulating, or placing before the public or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the

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		public, . . . or in any other way, . . . [a] statement containing any . . . representation, or statement, with respect to the business of insurance or with respect to any person in the conduct of his or her insurance business which is untrue, deceptive, or misleading; . . .
South Carolina	S.C. Code Ann. § 38-57-40	No person may make, issue, circulate, or cause to be made, issued, or circulated any . . . statement misrepresenting the terms of a policy issued or to be issued . . . or use any name or title of a policy or class of policies misrepresenting the true nature thereof.
	S.C. Code Ann. § 38-57-50	No person may make, publish, disseminate, circulate, or place before the pub-

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		lic or cause, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public . . . or in any other way . . . [a] statement containing . . . [a] representation, or statement with respect to the business of insurance or with respect to any person in the conduct of his insurance business which is untrue, deceptive, or misleading.
South Dakota	S.D. Codified Laws § 58-33-5	No person shall make, issue, circulate, or cause to be made, issued, or circulated, any . . . statement misrepresenting the terms of any policy issued or to be issued . . . or use any name or title of any policy or class of policies misrepresenting the true nature thereof.

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	S.D. Codified Laws § 58-33-6	No person shall make, publish, disseminate, circulate, or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated or placed before the public . . . or in any other way . . . [a] statement containing any assertion, representation or statement with respect to the business of insurance or with respect to any person in the conduct of his insurance business, which is untrue, deceptive or misleading.
Tennessee	Tenn. Code Ann. § 56-8-104	The following are hereby specifically defined as . . . unfair or deceptive acts or practices in the business of insurance: (1) . . . Making, publishing, disseminating, circulating, or plac-

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		ing before the public or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, . . .or in any other way, . . . [a] statement containing any . . . representation, or statement, with respect to the business of insurance or with respect to any person in the conduct of his insurance business, which is untrue, deceptive, or misleading or which: (A) Misrepresents the . . . conditions, or terms of any insurance policy; . . . (E) Uses any name or title of any insurance policy or

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		class of insurance policies misrepresenting the true nature of such policy or class of policies. . . .
Texas	Tex. Ins. Code Ann. § 21.21	Sec. 1.(a) The purpose of this Act is to regulate trade practices in the business of insurance by defining, . . . all such practices in this state which constitute . . . unfair or deceptive acts or practices and by prohibiting the trade practices so defined or determined. . . . Sec. 4(1) . . . Making, issuing, circulating, or causing to be made, issued or circulated any . . . statement misrepresenting the terms of any policy . . . or using any name or title of any policy or class of policies misrepresenting the true nature thereof, . . .

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		Sec. 4(2) . . . Making, publishing, disseminating, circulating, or placing before the public or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, . . .or in any other way, . . . [a] statement containing any . . . representation or statement with respect to the business of insurance or with respect to any person in the conduct of his insurance business, which is untrue, deceptive, or misleading; . . .
Utah	Utah Code Ann. § 31A-23-302 (1)(a)(i)	A person who is or should be licensed under this title, an employee or agent of that licensee or person who should be licensed . . . may not make or cause to be made any communication that contains false or misleading information, relating to an insurance contract,

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		any insurer, or other licensee under this title, including information that is false or misleading because it is incomplete.
Vermont	Vt. Stat. Ann. tit. 8 § 4724	The following are hereby defined as . . . unfair or deceptive acts or practices in the business of insurance: (1) . . . Making, issuing, circulating, or causing to be made, issued or circulated, any . . .statement . . . which: (A) misrepresents . . . the . . . conditions . . . or terms of any insurance policy; or . . . (E) uses any name or title of any insurance policy or

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		class of insurance policies misrepresenting the true nature thereof; or . . .
		(2) . . . Making, publishing, disseminating, circulating, or placing before the public or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, . . . or in any other way, . . . [a] statement containing any . . . representation, or statement, with respect to the business of insurance or with respect to any person in the conduct of his business, which is untrue, deceptive, or misleading.

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Virginia	Va. Code Ann. § 38.2-502	No person shall make, issue, circulate, cause or knowingly allow to be made, issued or circulated, any . . . statement . . . that: 1. Misrepresents the benefits, advantages, conditions or terms of any insurance policy; . . . 5. Uses any name or title of any insurance policy or class of insurance policies that misrepresents the true nature of the policy or policies;
	Va. Code Ann. § 38.2-503	No person shall knowingly make, publish, disseminate, circulate, or place before the public, or cause or knowingly allow, directly or indirectly, to be made, published, disseminated, circulated, or

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		placed before the public . . . or in any other way . . . [a] statement containing any assertion, representation or statement relating to (i) the business of insurance or (ii) any person in the conduct of his insurance business, which is untrue, deceptive or misleading.
Washington	Wash. Rev. Code Ann. § 48.30.090	No person shall make, issue or circulate, or cause to be made, issued or circulated any misrepresentation of the terms of any policy . . . or use any name or title of any policy or class of policies misrepresenting the nature thereof.
	Wash. Rev. Code Ann. § 48.30.040	No person shall knowingly make, publish, or disseminate any false, deceptive or misleading representation or adver-

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		tising in the conduct of the business of insurance, or relative to the business of insurance or relative to any person engaged therein.
West Virginia	W. Va. Code § 33-11-4	The following are hereby defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance: (1) . . . No person shall make, issue, circulate, or cause to be made, issued or circulated, any . . . statement . . .which: (a) Misrepresents the . . . terms of any insurance policy; or . . .

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		(e) Uses any name or title of any insurance policy or class of insurance policies misrepresenting the true nature thereof; or . . . (2) . . . .No person shall make, publish, disseminate, circulate or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated or placed before the public . . . or in any other way, . . . [a] statement containing any . . . representation or statement with respect to the business of insurance or with respect to any person in the conduct of his insurance business, which is untrue, deceptive or misleading.

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Wisconsin	Wis. Stat. Ann. § 628.34 (1)(a)	. . . [N]o person . . . may make or cause to be made any communication relating to an insurance contract, the insurance business, any insurer or any intermediary which contains false or misleading information . . .
Wyoming	Wyo. Stat. Ann. § 26-13-103(a)	No person shall: (i) Make, issue, circulate, or cause to be made, issued or circulated, any . . . statement misrepresenting the terms of any policy issued or to be issued . . . . . . (iv) Use any name or title of any policy or class of policies misrepresenting the true nature thereof.

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	Wyo. Stat. Ann. § 26-13-104	No person shall make in any manner in any advertising or other communication medium any advertisement, announcement or statement containing any assertion, representation or statement with respect to the business of insurance or with respect to any person in the conduct of his insurance business, which is untrue, deceptive or misleading.